149 US 778
Laches pltf's brief

RECORD, CASE No. 13,790.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1892.

TERM No., 197.

ROBERT B. LANGDON, APPELLANT,

vs.

PHILIP M. RANNEY AND JOHN COMSTOCK.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MINNESOTA.

FILED OCTOBER 16, 1889.

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1 United States Circuit Court, District of Minnesota. In Equity.

ROBERT B. LANGDON, Complainant,
vs.
PHILIP M. RANNEY and JOHN COMSTOCK, Defendants.

Pleas before the honorable the judges of the circuit court of the United States of America for the district of Minnesota, of the June term of said court, held in the city of St. Paul, in said district, in the year of our Lord one thousand eight hundred and eighty-eight, and of our Independence the 113th year.

DISTRICT OF MINNESOTA, *ss:*

Be it remembered that on this 22nd day of June, A. D. 1886, came the defendants above named, by Baker & Smith, their attorneys, and filed in the clerk's office of said court their return from the district court of St. Louis county; which said return is in the words and figures following, to wit:

Return from District Court.

2 STATE OF MINNESOTA, *County of St. Louis,* } *ss:*

I hereby certify and return that I have made due and diligent search and inquiry throughout the county of St. Louis for the within-named defendants, Phillip M. Ranney and John Comstock, but they cannot be found therein.

Dated at Duluth this 3rd day of December, 1885.

S. C. McQUADE,
Sheriff St. Louis County, Minn.

3 STATE OF MINNESOTA, *County of St. Louis,* } *ss:*

District Court, Eleventh Judicial District.

ROBERT B. LANGDON, Plaintiff,
vs.
PHILLIP M. RANNEY & JOHN COMSTOCK, Defendants.

The State of Minnesota to the above-named defendants:

You are hereby summonsed and required to answer the complaint of the plaintiff in the above-entitled action, which is filed in the office of the clerk of the district court of the eleventh *in*dicial district in and for the county of St. Louis and State of Minnesota, and to serve a copy of your answer to the said complaint on the subscribers, at their office, in Stillwater, Washington county, Minn., within 20 days after the service of this summons upon you, exclusive of the day of such service, and if you fail to answer the said complaint within the time aforesaid the plaintiff in this action will apply to the court for the relief demanded in the complaint.

Dated November 23rd, A. D. 1885.

SEARLS, IRVING & GAIL,
Plaintiff's Attorneys, Stillwater, Minn.

4 STATE OF MINNESOTA, } ss:
County of St. Louis, }

I hereby certify and return that I have made due and diligent search and inquiry throughout the county of St. Louis for the within-named defendants, Phillip M. Ranney and John Comstock, but they cannot be found therein.

Dated at Duluth, St. Louis county, Minn., this 3rd day of Dec., 1885.

S. C. McQUADE,
Sheriff St. Louis County, Minn.

5 STATE OF MINNESOTA, }
Counties of St. Louis, Lake, and Cook. }

District Court, Eleventh Judicial District.

ROBERT B. LANGDON, Plaintiff, }
vs.
PHILLIP M. RANNEY & JOHN COMSTOCK, Defendants. }

The plaintiff, complaining of the defendants, alleges as follows:

1st. On the sixteenth day of September, A. D. 1884, the defendant Phillip M. Ranney was the owner in fee of certain pine lands lying and being in the counties of St. Louis and Carlton, in the State of Minnesota, a specific description of which is set forth in "Exhibit A," hereto attached as a part and portion of the complaint.

2nd. Prior to said last-mentioned date said defendants Ranney had entered into contract with the land department of the Minnesota Central Railroad Company, whereby said company, in consideration of the payment of said Ranney to said company of the purchase price therefore, had agreed to apply to the State of Minnesota to have those certain lands described in "Exhibit B," hereto attached, deeded to said company under the terms of charter 67 of the Special Laws of Minnesota for the Year 1865 and acts amendatory thereof, and as soon as said company acquired title thereto from said State of Minnesota said company agreed to deed said lands in "Exhibit B" specified to the legal holder of said contracts so made with said defendant Ranney, the same being in writing, sixteen in number, and designated as A 13, A 23, A 22, A 21, A 20, A 19, A 18, A 17, A 16, A 15, A 14, A 12, A 11, A 10, A 5, and A 4, said deeds to be made upon demand, and the surrender of the said written contracts at the office of said land department in the city of St. Paul, Minnesota.

6 And it was likewise further agreed in said contract between said Ranney and said land department that in case it should be found that the title to said lands or any portion thereof cannot for any reason be obtained from said State, then the owner of said contracts should be entitled to select a like quantity of land from any land in the hands of said company title to which could be obtained by said company under its land grant, being said acts of the legislature of the State of Minnesota, not previously selected

by the said company or some other person holding the company's contract therefore; which said contracts were owned and held by *by* the defendant Ranney on the date aforesaid, and upon the surrender thereof to said land department he or the owner thereof was entitled to demand and receive a conveyance of the lands in "Exhibit B" specified.

3rd. On said last-mentioned date said defendant Ranney likewise owned and held certain written contracts, whereby, for a valuable consideration, the land department of the Minnesota Central Railroad Company agreed, upon the return of its contract in that behalf entered into, together with a written description of the lands selected endorsed thereon, to sell to the said P. M. Ranney or his heirs or assigns any Government subdivision of lands which he might select, containing not more than forty acres, which said company then and thereafter might be entitled to have deeded to it by the State of Minnesota under the provisions of chapter 67 of the Special Laws of Minnesota for the Year 1865 and acts amendatory thereof, and upon return of said contracts to said company, with endorsements thereon showing the lands selected thereunder, said land department agreed to issue to the owner of said contract and in lieu thereof an agreement on its part to take all necessary steps to secure the title of said lands from the State, and as soon as said title should be obtained to cause said title to be conveyed by said company to the person who will be entitled to the same under the terms of said contract.

That under said contract the defendant has selected and duly endorsed on said contracts a written selection of all those certain
7 lands specified in "Exhibit C," hereto attached, and upon the surrender of said contracts with said endorsements of lands selected thereunder to said land department a contract for the conveyance thereof would have been made and will yet be made by said land department.

4th. Prior to the twenty-eighth day of May, A. D. 1884, one W. P. Jewett and the defendant P. M. Ranney entered into a written contract whereby said Jewett, for a valuable consideration to him in hand paid by said Ranney, agreed to sell and convey to said Ranney by good and sufficient warranty deed upon the further payment of the sum of three and $\frac{50}{100}$ dollars ($3.50) per acre, upon the term- and conditions hereinafter stated, such of the lands described in "Exhibit D," hereto attached as a part and portion hereof, as the said Jewett might be able to secure title to under a certain agreement theretofore made by and between the said Jewett and one J. S. Pillsbury, of Minneapolis, Minnesota, provided, however, that said Ranney should on or before the first day of December, A. D. 1884, file with said Jewett a notice in writing declaring his intentions to purchase the lands under the terms of said agreement.

It is further agreed between the said Jewett and the defendant Ranney that in case the said Ranney should determine to purchase said lands and so notify said Jewett, the latter agreed to prepare and present to the defendant Ranney within thirty days from said first day of December, 1884, good, sufficient deeds, conveying to the said party of second part all the lands described to which he might have

received title prior to the first day of December, 1884, and to deliver the same upon receiving payment therefor at the aforesaid price of three and $\frac{50}{100}$ dollars ($3.50) per acre, and thereafter in like manner furnish similar deeds for the remaining lands in said "Exhibit D" mentioned from time to time when said Jewett would have received title thereto, and the defendant Ranney agreed to notify the said Jewett on or before the first day of December, 1884, of his intentions to accept or decline the option to purchase said lands in said
8 contract secured to him, and in case of his acceptance of said privilage to purchase said Ranney agreed to pay upon delivery of said deeds therefor the sum of three and $\frac{50}{100}$ dollars ($3.50) per acre for all lands so conveyed to him under said agreement.

It was likewise further agreed that if the said Ranney should fail to notify the said Jewett of his acceptance of the privilege of purchase as aforesaid within the time limited, then and in that event said contract or agreement should be null and void, and in that event said Jewett thereby agreed to release the said Ranney from all obligations under said agreement.

That the said Jewett secured or was able to secure title to all the lands in said "Exhibit D" mentioned from the said J. S. Pillsbury, and could have conveyed the same to the said Ranney had the option acquired by said Ranney under said contract with said — been exercised.

5th. On the sixteenth day of September, 1884, while the defendant Ranney was the owner of the lands in paragraph one herein mentioned and was likewise the owner and holder of all the various contracts and agreements in paragraphs two, three, and four hereinbefore specified, one Dwight M. Sabin and the said defendant Ranney entered into an agreement in writing, whereby it was agreed as follows: The said Sabin should pay the said Ranney the sum of three thousand dollars ($3,000.00) in cash, and likewise gave the said Ranney his promissory note for the sum of three thousand dollars ($3,000.00), bearing said last-mentioned date, due sixty days from date, with interest, at eight per cent. per annum, from date until paid, and should likewise pay said Ranney the further sum of nine thousand eight hundred sixty-eight and $\frac{50}{100}$ dollars ($9,868.50) within one year from said last-mentioned date, with interest, at the rate of eight per cent. per annum, from said date until paid, and, in consideration of said cash payment, promissory note, and promise to pay, the defendant Ranney undertook and promised to sell, assign, transfer, set over, and deliver to said Sabin all the afore-
9 said land contracts in paragraphs two and three in this complaint, being the contracts with the said land department of the Minnesota Central Railroad Company, and likewise undertook and promised to sell, assign, transfer, and set over and vest in the said Sabin the same option to purchase of the said Jewett the lands mentioned in "Exhibit D," and on the same terms as the said defendant Ranney then held according to the aforesaid contract between said Ranney and said Jewett, and upon the payment of said last-mentioned sum of nine thousand eight hundred sixty-eight and $\frac{50}{100}$ dollars, with interest as aforesaid, the said Ranney under-

took and promised to convey by good and sufficient deed of warranty to said Sabin all the lands mentioned in paragraph one in this complaint, the same being specified in "Exhibit A" hereto attached.

6th. The said Sabin paid said Ranney said $3,000.00 cash, made said note afterwards, — at maturity paid to said Ranney the principal and interest due on the said promissory note of three thousand dollars, and thereupon became entitled, according to the terms of said agreement with said Ranney, to the transfer and delivery of the aforesaid land contracts mentioned in paragraphs two and three hereof, and likewise entitled to have transferred to him and to have been vested with the right or privilege, at his option, to purchase of the said Jewett the lands mentioned in "Exhibit D," but the said Ranney neglected and refused and ever since has neglected and refused to transfer to said Sabin said land contracts or any of them, and has likewise wholly neglected and refused to transfer to said Sabin the option said Ranney held by said Jewett contract or to vest the said Sabin with the rights or privilege- at his optio- of purchasing the land in "Exhibit D" mentioned in said contract between the defendant Ranney and said Jewett.

7th. Further plaintiff complaines and avers that said Ranney never exercised the option acquired by him under said Jewett contract, and all right in the said Ranney to exercise the same terminated on the first day of December, 1884, and it there became and ever since has been impossible for the defendant Ranney to perform his said contract as aforesaid.

8th. On the twenty-seventh day of August, 1885, said D. M. Sabin for value granted, bargained, sold, conveyed, assigned, transferred, set over, and delivered to this plaintiff all his interest in and to the land mentioned in the several "Exhibits A, B, C, & D" hereto attached, and all his interest, right, and title in and to said contract with the said Ranney hereinbefore set forth, with full power unto this plaintiff to fully complete the performance of said contract and demand, sue for, and recover the said lands and the conveyance thereof, as well as possession thereof, from the said Ranney, and likewise transferred and set over to this plaintiff all rights of action, claims, and demands said Sabin had against said Ranney by reason of the facts aforesaid, whereby this plaintiff thereupon became the owner and holder of the aforesaid agreement between said Sabin and the defendant Ranney and all the rights of the said Sabin thereunder by reason of the facts aforesaid.

9th. That afterwards — the time of the payment said sum of nine thousand eight hundred sixty-eight and $\frac{50}{100}$ dollars ($9,868.50) was extended by mutual agreemend to the twenty-sixth of October, 1885, on which date defendant Ranney refused to deliver to this plaintiff on demand any of the aforesaid contracts or to make any conveyance of lands according — this said agreement unless plaintiff would pay the full sum of nine thousand eight hundred sixty-eight and $\frac{50}{100}$ dollars ($9,868.50), with interest as aforesaid, without any deduction, by reason of his failure to make over to the said Sabin or this plaintiff, as said Sabin's assignee, the right or privilege of purchas-

ing of the said Jewett the said lands in "Exhibit B" mentioned upon the terms of the aforesaid contract between the said Ranney and said Jewett specified.

11 That the right or privilege the said Ranney had to purchase the said lands from the said Jewett was of the value of exceeding fifteen thousand dollars ($15,000.00) at the time the said Sabin paid the said promissory note and became entitled to be vested with said privilege, and that said Ranney by neglecting to exercise the said option or to vest in the said Sabin the right to exercise the same according to his said agreement has placed it beyond his power to exercise the said option or to vest the said Sabin or this plaintiff with the privilege of exercising the same, and has thereby impaired the value of the property and interest which he agreed, as aforesaid, in consideration of the payments made and to be made him by said plaintiff as aforesaid, to the extent of not less than fifteen thousand dollars.

10th. That at the time the *that* said Sabin and Ranney entered upon said agreement as aforesaid *the* deposited the said land contracts covering the lands in Exhibit B & C mentioned with one John C. Spooner, to be held in escrow for delivery to the said Sabin upon the payment of the said three thousand dollars promissory note. Afterwards the plaintiff and the defendant Ranney consented that the said Spooner should transfer the said papers to the defendant John Comstock, of Hudson, Wisconsin, to be held in escrow on the same terms that the same had been held by the said Spooner, and the said papers were afterwards so transferred to the said Comstock and are now held by him as custodian, and a delivery thereof to this plaintiff and said Sabin has been demanded by the plaintiff of said Comstock, but such delivery has by him been refused, although plaintiff is informed and believes that said Comstock is ready and willing to deliver said contracts to the plaintiff upon the written consent or order of the defendant Ranney.

Wherefore plaintiff demands judgment against the defendants as follows:

12 Against all the defendants that said land contracts so held by the defendant Comstock be delivered to the plaintiff.

2nd. That a just deduction from the aforesaid sum of nine thousand eight hundred sixty-eight and $\frac{50}{100}$ dollars ($9,868.50) be made on account of the failure of said defendant Ranney to vest in the said Sabin the option or privilege of purchasing from the said Jewett the lands in "Exhibit D" mentioned, and that thereupon the defendant Ranney be adjudged and required to convey to the plaintiff all his interest in and to the aforesaid land contracts or the lands in "Exhibits B and C" mentioned, and a good sufficient conveyance of all the lands in "Exhibit A" mentioned, upon the payment of such sum, if any, as may be due the defendant Ranney after compensation has been made to the plaintiff as aforesaid within a time to be fixed by the court, which payment plaintiff is ready and willing to make, or in default thereof that the same shall be so transferred and conveyed by judgment of this court, and for such other

and further relief as may be just and equitable, together with the costs — disbursements herein.

SEARLES, ERVING & GAIL,
Plaintiff's Attorneys.

13 "EXHIBIT A."

	Sec.	T'p.	Range.	County.
N e ¼ of s e	6	58	14	St. Louis county.
N ½ of n e, s ½ of s e	26	58	14	" "
N e ¼	21	60	16	" "
Lots 5 & 8	23	58	16	" "
Lot 1	2	52	17	" "
S e of n w & s e of s w	14	52	17	" "
S w of s e	10	50	17	" "
N ½ of s e	10	57	17	" "
N w of s e	17	57	17	" "
S e of n e & n e of s e	20	57	17	" "
S ½ of n w, n e of s e	26	57	17	" "
S ½ of s e	29	60	18	" "
S w of n e ¼, of s e, & s e of s e	4	50	19	" "
S w of s w	8	50	19	" "
N e of n w & n w of n e	10	52	19	" "
S e of n e	19	57	20	" "
W ½ of s w	28	57	20	" "
E ½ of n e	32	57	20	" "
Lot 4	7	47	20	Carlton county.
Lot 1	18	47	20	" "
Lot 7 & n e of s e	1	56	20	St. Louis county.
S w of n w	4	56	20	" "
S e of n e & n ½ of s e	12	56	20	" "
Lot 2	31	56	21	" "

14 "EXHIBIT B."

Date.	Contract No.		Sec.	T'p.	Range.	County.
A 13, Sept. 1, 1883	(71)	S w ¼ of n e ¼	21	60	21	St. Louis county.
A 23, Sept. 4, 1883	(78)	N w ¼ of n w ¼	35	63	23	Itasca county.
A 22, Sept. 4, 1883	(79)	S w ¼ of n w ¼	35	63	23	" "
A 21, Sept. 4, 1883	(77)	N e ¼ of n w ¼	35	63	23	" "
A 20, Sept. 1, 1883	(66)	N e ¼ of S e ¼	31	60	14	St. Louis county.
A 19, Sept. 1, 1883	(67)	N e ¼ of n e ¼	27	65	21	" "
A 18, Sept. 1, 1883	(76)	S w ¼ of s e ¼	11	64	21	" "
A 17, " "	(74)	S w ¼ of s w ¼	23	60	16	" "
A 16, " "	(75)	Lot 1	3	64	21	" "
A 15, " "	(73)	N w ¼ of s w ¼	23	60	16	" "
A 14, " "	(72)	S e ¼ of n e ¼	21	60	16	" "
A 12, " "	(70)	N w ¼ of n e ¼	21	60	16	" "
A 11, " "	(68)	N e ¼ of n w ¼	19	60	16	" "
A 10, " "	(69)	N e ¼ of n e ¼	21	60	16	" "
A 5, June 22, 1883	(58)	S e ¼ of s e ¼	29	60	18	" "
A 4, June 22, 1883	(59)	S w ¼ of s w ¼	29	60	18	" "

"EXHIBIT C."

Date.	Contract No.		Sec.	T'p.	Range.	County.
June 5, 1883	(86)	Lot- 3 & 4	31	60	6	Lake Co., Minn.
" "	(85)	S w of n w	15	59	6	" "
" "	(84)	Lots 2 & 3	15	59	6	" "
" "	(83)	S w of s w ¼	33	59	6	" "
" "	(82)	N w of n e	17	59	6	" "
" "	(80)	N e ¼ of n e ¼	17	59	6	" "

15

"EXHIBIT D."

	Sec.	T'p.	Range.	County.
N e of n e	4	59	14	St. Louis county.
S w ¼ of s e, n ½ of s w	32	60	14	" "
W ½ of n e	9	60	14	" "
S w ¼ of s w ¼	3	60	15	" "
N e ¼ of s e ¼	6	60	15	" "
S w ¼ of s w ¼ of s e	9	60	15	" "
N e of n w	10	60	15	" "
N e of n w	14	60	15	" "
N e of s e, s w of s e	26	60	15	" "
S w of n e & lots 1 & 2	5	61	15	" "
Lots 1 & 2	6	61	15	" "
S ½ of s e & s e of s w	19	60	16	" "
N ½ of s e	12	60	16	" "
S e of s e	18	60	16	" "
E ½ of s e	22	60	16	" "
N ½ of n e, s w of n e, n w of s e	24	60	16	" "
S w of s w	6	60	16	" "
S ½ of n w	29	60	16	" "
N ½ of s e	13	60	17	" "
N e of n e	19	60	17	" "
N w of n w	20	60	17	" "
N ½ of s w, s e of s w, & lots 3 & 4	1	60	17	" "
N ½ of s e	2	60	17	" "
N ½ of n e	12	60	17	" "
W ½ of n e	32	60	18	" "
N w of s w	32	60	18	" "
S ½ of n e	32	58	18	" "
N w of n w, n w of s w	14	63	19	" "
16 S e of n e	22	63	19	St. Louis county.
S w of n w & s e of n e	23	63	19	" "
N e of n w	25	64	20	" "
W ½ of n e	24	64	20	" "
N w of n e & n w of s e	26	64	20	" "
N w of s w	4	66	20	" "
N e of n e	15	66	20	" "
Lots 1, 2, 3, & 6	2	64	21	" "
S e of n e & lot 4	12	64	21	" "
S w of n e, e ½ of n w	34	65	21	" "
N e of s w & lot 1	34	65	21	" "
N e ¼, n e of n w	34	63	23	Itasca county.
Lot 8	10	59	6	Lake county.

17 STATE OF MINNESOTA, } ss:
County of Washington, }

J. N. Searls, of said county, being duly sworn, says he is one of the attorneys of the plaintiff in this action; that the plaintiff is absent from the county of Washington, where this deponent resides, and that the foregoing complaint is true, to the best of deponent's knowledge, information, and belief.

J. N. SEARLES.

Subscribed and sworn to before me this 23rd day of November, 1885.

FRED. W. GAIL,
[NOTARY SEAL.] *Notary Public, Minn.*

18 STATE OF MINNESOTA, }
Counties of St. Louis, Cook, and Lake. }

District Court, Eleventh Judicial District.

ROBERT B. LANGDON
vs.
PHILLIP M. RANNEY & JOHN COMSTOCK.

The said defendants, answering the complaint of the plaintiff herein:

1st. Deny each and every *obligation* in said complaint contained, except those hereinafter specifically admitted, qualified, or otherwise denied.

2nd. Admit that the *obligations* of said complaint embraced in paragraphs 1, 2, 3, & 4 thereof are substantially true, except that they deny that the defendant Ranney was ever the owner in fee or ever had any right to convey, or ever agreed to convey, either the northeast quarter of section 21, township 60, range 16, or the south half of the southeast quarter of section 29, township 60, range 18.

3rd. Deny specifically that the defendant Ranney ever undertook or promised to convey to D. M. Sabin the lands mentioned in paragraph "one" in said complaint or to sell, transfer, assign, set over, or deliver to said Sabin the land contracts mentioned in paragraphs "two" and "three" of said complaint, or that he ever undertook or promised to sell, assign, transfer, or set over to or vest in said Sabin the option to purchase certain lands of the W. P. Jewett mentioned in said paragraph four of said complaint, except as hereinafter set forth.

4th. Deny that they or either of them have any knowledge or information sufficient to form a belief as to the truth of any of the *obligations* contained in paragraph eight of said complaint or as to the value of the right of privilege to purchase the said lands
19 described in the said contract between said Ranney and said Jewett.

5th. Defendants, further answering said complaint, allege that on the 16th day of Sept., 1884, at the city of Stillwater, in said State, the said defendant Ranney, there being the owner in fee of

the lands described in Schedule "A" attached to said complaint (excepting the two parcles designated in paragraph two hereof), and of the contracts and of the option mentioned in paragraphs two, three, and four of said complaint, entered into an agreement with said Sabin to sell and convey to said Sabin the lands so owned by him, said Ranney, and to assign and transfer to said Sabin all his, said Ranney's, interest in said contracts and said option for the sum of $15,868.50; that by the terms of said agreement $3,000.00 of said sum was to be paid by said Sabin immediately, $3,000.00 in sixty days from that date, and the balance of said sum, to wit, the sum of $9,868.50 in one year from that date, said defer-ed payments to bear interest at eight per cent. per annum until paid.

That in order to secure said Ranney for the payment of said sum of $3,000.00 and the said sum of $9,868.50 to be paid in sixty days and one year respectively as aforesaid, it was then and there further agreed by and between said Ranney and said Sabin that deeds of said lands owned by said Ranney in fee should be executed by said Ranney, and that all of said contracts, including said option contracts with said Jewett, should be assigned to said Sabin, and that said deeds and all said contracts should be placed in the hands of John C. Spooner, of Hudson, Wisconsin, in escrow as security for and until the payment of said sum of $3,000.00 and said sum of $9,868.50 and the interest upon both said sums was fully paid, or until said Sabin should furnish other security that should be satisfactory to said Ranney, which he, said Sabin, then stated that he desired to do and would do within thirty days.

That when the terms of said agreement between said Sabin and said Ranney had been settled and said Ranney was about to execute said deeds and the assignment of all said contracts, in persuance of said agreement with said Sabin, and to place them in escrow as security as aforesaid, and said Sabin requested said Ranney to leave the name of the granter in said deeds and the name of the assignee in the assignment to be made upon said contracts blank, so that in case he, said Sabin, should desire to sell said land or to transfer said contracts he could insert the name of the person to whom he should sell the same; that such deeds were executed by said Ranney and such assignment was endorsed upon said contracts precisely as directed and requested by said Sabin, and that but for such direction and request of said Sabin said Ranney would have then made said deeds and said assignments to said Sabin complete, so that by the delivery of the same to him upon full preformance of said agreement he, said Sabin, would have become vested with the absolute title to said lands owned in fee by said Ranney and with the same title to all the said contracts which he, said Ranney, had at the date of such agreement with said Sabin; that to evidence such agreement on the part of said Sabin he, said Sabin, did then and there execute and deliver to said Ranney the following memorandum in writing of his said agreement, to wit:

21 President's office, Northwestern Manufacturing and Car Company; D. M. Sabin, president.

STILLWATER, MINN., *Sept. 16th*, 1884.

P. M. Ranney to-day sold me land contracts which he assigned in blank and executed a warranty deed, also in blank, for about 5,900 acres — land in St. Louis, Carleton, and Itasca counties, Minnesota, and left the same in John Spooner's hands, to be delivered to me upon the payment of a certain promissory note made by me this date for $3,000.00, with interest at the rate of eight per cent. interest per annum from date until paid; also the further sum of $9,868.50, which I agree to pay within a year from this date, with interest at the rate of eight per cent. per annum until paid, said Spooner to hold said contracts and warranty deeds until I pay said Ranney or make some other satisfactory arrangements with him.

It is understood that said contracts and deed for lands as security for the payment of the above $9,868.50 and the $3,000.00 note.

D. M. SABIN.

That said Sabin then and there in persuance of said agreement and in part performance thereof paid to said Ranney the sum of $3,000.00 and give to him his, said Sabin's, note for the further sum of $3,000.00, due in sixty days from that date, with interest at eight per cent. per annum, which said note was paid at maturity.

That in persuance of said agreement and not otherwise said Ranney placed said deeds and said contracts in the hands of said Spooner, in escrow, to be held by him as security for the full and complete performance of said agreement by said Sabin, and that all said papers were afterwards, by the consent of all parties interested, transferred by said Spooner to the hands of the defendant Comstock, to be held by said Comstock upon the same terms and subject to the same conditions as they were held by said Spooner, and that
22 no other or different agreement has ever been made between said Ranney and the plaintiff in regard to the lands and the contracts herein refer-ed to than as hereinbefore set forth.

6th. Deny that any demand has ever been made upon the said Spooner or upon said Comstock by said Sabin or by said plaintiff for the delivery of said contracts or any or either of them, or that said Sabin or plaintiff ever became entitled to the delivery of said contracts or to the delivery of any or either of them or to a deed of any of the lands described in the complaint.

7th. Deny specifically that said Ranney was ever under any obligations to do any act or to take any steps whatever in the matter of the exercise of the option provided for in the said contract with Jewett and oblige- by virtue of the aforesaid sale to said Sabin. He, said Ranney, simply transferred to said Sabin the right, if he chose so to do, to exercise the option provided for in said contract.

8th. That some time during the last of November, 1884, said Ranney, although under no obligation whatever so to do, notified said Sabin that the time within which he, said Sabin, could by the terms of said contract with said Jewett elect to purchase the lands therein

described would very soon expire, and that if he, said Sabin, wished to exercise the option therein provided for he must do it at once; that said Sabin then informed said Ranney that he, said Sabin, did not desire to purchase the lands described in said contract with Jewett, and that he had determined to make no further payment under the agreement with him, said Ranney, but that he had abandoned the entire purchase; that said Ranney then informed said Sabin that he, said Ranney, should insist upon the payment of the balance due him under said agreement.

That neither at the time nor at any other time did said Sabin or the plaintiff ever request said Ranney to take any steps or to do any act whatever in regard to the exercise of the option contained
23 in said contract with said Jewett or make any claims that said Ranney was under any obligation whatever in the premises.

9th. That neither said Sabin nor the plaintiff has ever paid said sum of $9,868.50 nor any part thereof or the interest thereon, but that there is now due to said Ranney upon said agreement with said Sabin the sum of $9,868.50, with interest thereon from the 16th day of September, 1884, at the rate of eight per cent. per annum.

10th. The said defendant Ranney has in all things fully performed his said agreement with said Sabin on his part; that he ever has been and now is ready and willing to convey the lands described in Schedule "A" of the complaint to the person entitled to receive such conveyance and to execute upon each of said contracts mentioned in said paragraphs two, three, and four of the complaint such an assignment as shall vest in the person entitled to receive the same all the rights he, said Ranney, had at the date of said agreement, excepting the right to purchase the lands described in said contract with said Jewett, which said Sabin elected to permit to lapse as aforesaid upon the payment by the plaintiff of said sum of $9,868.50 and the interest thereon as aforesaid.

Wherefore the plaintiff prays that it be adjudged and decreed by this court that there is now due to the said defendant Ranney under the aforesaid agreement with said Sabin the sum of $9,868.50, with interest thereon from the 16th day of Sept., 1884, at the rate of eight per cent. per annum; that the said deeds and the said contracts now in the hands of said defendant Comstock are held by him as security for said sum and interest so due said Ranney; that unless the plaintiff should pay the said sum and interest within a reasonable time to be fixed by the court that all the rights of the plaintiff to a deed of the lands owned by said Ranney in fee and to the assignment and delivery of said contracts mentioned in paragraphs two, three, and four of complaint be forever barred and fore-
24 closed, and that said defendant Comstock be required and directed to deliver to said defendant Ranney said deeds and said contracts and all papers in his hands by virtue of the agreement of escrow aforesaid, and that the said defendant Ranney have such

other and further relief, or both, in the premises as shall be just and equitable.

BAKER & SMITH,
Defendants' Attorneys.

C. K. DAVIS, *Of Counsel.*

STATE OF MINNESOTA, } ss:
County of Hennepin, }

H. C. Baker, being duly sworn, says he is one of the attorneys of the defendants in this action; that both of said defendants are non-residents of and absent from said State, and that the foregoing answer is true, to the best of deponent's knowledge, information, and belief.

H. C. BAKER.

Subscribed and sworn to before me this 4th day of February, 1886.

[SEAL.] M. P. HAWKINS,
Notary Public, Hennepin County, Minn.

25 STATE OF MINNESOTA, }
Counties of St. Louis, Cook, and Lake. }

District Court, Eleventh Judicial District.

ROBERT B. LANGDON, Plaintiff, }
vs.
PHILLIP M. RANNEY & JOHN COMSTOCK, Defendants. }

To the honorable the district court:

And now come your petitioner-, the said defendants, and respectfully show to this honorable court—

That at the time of the commencement of this action the plaintiff therein was and now is a citizen of the State of Minnesota, and that said defendants both were then and now are citizens of the State of Wisconsin.

That this action was brought in the district court of St. Louis, Cook, & Lake counties, in the eleventh judicial district of the State of Minnesota, on or about the 15th day of December, 1885, and that the same has not been tried but is still pending in said district court.

That the plaintiff in this action claims in his summons and complaint therein as damages against the defendants therein the specific performance of certain contracts to convey property and damages, exclusive of costs, said property being worth ten thousand dollars, and that the matter in dispute in this suit exceeds the sum of five hundred dollars.

That your petitioners desire to remove this suit, before the trial thereof, into the next circuit court of the United States for the district of Minnesota, in the eighth circuit, pursuant to the act of Congress entitled "An act to determine the jurisdiction of circuit courts

of the United States and to regulate the removal of causes from State courts, and for other purposes, approved March 3rd, 1875," and the acts amendatory thereof, and that your petitioners are ready
26 and willing to give such good and sufficient surety as this court may direct for doing all acts and things required to be done by the provisions of law upon the removal of a suit into the United States circuit court, and hereunto offers a bond in the penal sum of five hundred dollars, executed by them as principals, and Cushman K. Davis and James J. McCafferty as sureties, and conditioned as required by law.

Wherefore your petitioners pray that said bond may be accepted as good and sufficient surety according to said provisions of law.

That the said suit may be removed into the next circuit court of the United States for the district of Minnesota, to be held at St. Paul on the third Monday of June, A. D. 1886, pursuant to the statutes in such case made and provided, and that no further proceedings be had therein in this court.

PHILLIP M. RANNEY &
JOHN COMSTOCK,
By C. K. DAVIS,
Their Attorney and Agent.

C. K. DAVIS,
Defendants' Attorney.

STATE OF MINNESOTA, }
County of Ramsey, } *ss:*

C. K. Davis came before me personally, and, being duly sworn, doth say that he is the attorney and agent of the defendants in the above-entitled action; that the foregoing petition by him subscribed is true.

C. K. DAVIS.

Subscribed and sworn to before me on this 2nd day of February, 1886.

C. O. SWANSON,
[SEAL.] *Notary Public, Ramsey County, Minn.*

27 STATE OF MINNESOTA, }
Counties of St. Louis, Cook, & Lake. }

District Court, Eleventh Judicial District.

ROBERT B. LANGDON, Plaintiff,
vs.
PHILLIP M. RANNEY & JOHN COMSTOCK, Defendants.

And now, upon reading the complaint of the plaintiff herein and upon reading and filing the petition of the defendants and approving and filing the bond of the defendants in the above-entitled action for the removal of said suit into the circuit court of the United States—

Ordered that said petition and bond be, and they are hereby,

accepted, and that said suit be, and the same hereby is, removed from the district court of St. Louis, Cook, and Lake counties, for the eleventh judicial district in the State of Minnesota, into the next circuit court of the United States for the district of Minnesota, and that no further proceedings be had therein in said district court.

O. P. STEARNS,
Judge of the District Court.

Dated February 4th.

28 STATE OF MINNESOTA, }
Counties of St. Louis, Cook, & Lake. }

District Court, Eleventh Judicial District.

ROBERT B. LANGDON, Plaintiff, }
vs.
PHILLIP M. RANNEY & JOHN COMSTOCK, Defendants. }

Know all men by these presents that we, Phillip M. Ranney & John Comstock, as principals, and Cushman K. Davis and James J. McCafferty, as sureties, are held and firmly bound unto Robert B. Langdon in the sum of two hundred and fifty dollars, lawful money of the United States of America, to be paid to the said Langdon, his executors, administrators, or assigns; for which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals and dated the 2nd day of February, one thousand eight hundred and eighty-six.

The condition of the above obligation is such that whereas a suit was brought on or about the — day of December, 1886, in the district court, counties of St. Louis, Cook, & Lake, State of Minnesota, by said Robert B. Langdon against Phillip M. Ranney & John Comstock, and is now pending in said counties and is removable into the circuit court of the United States for the district of Minnesota:

Now, therefore, if the said defendants shall enter or cause to be entered in said circuit court of the United States for the district of Minnesota on the first day of its next stated session a copy of the record in said suit and shall pay all costs that may be awarded by said circuit court if said court shall hold that such suit was wrongfully or improperly removed thereto and do or cause to be done all such other appropriate acts as by the statutes of the United States are required to be done upon the removal of a suit into the United States circuit court, then the above obligation to be void;

29 otherwise to remain in full force and virtue.

PHILLIP M. RANNEY, [SEAL.]
JOHN COMSTOCK, [SEAL.]
By C. K. DAVIS, *Their Att'ey.* [SEAL.]
CUSHMAN K. DAVIS. [SEAL.]
JAMES J. McCAFFERTY. [SEAL.]

Sealed and delivered in presence of—
C. W. SEVERANCE.
N. NARWENT, HON.

STATE OF MINNESOTA, } ss:
County of St. Louis, }

I, H. A. Kuchli, clerk of the district court, 11th judicial district, within and for said county, the same being a court of record, do hereby certify that I have carefully and diligently compared the foregoing copies of summons and complaint, answer, petition for removing of cause into U. S. circuit court, and bond for removing of cause to U. S. circuit court in an action wherein Robert B. Langdon is plaintiff and Phillip M. Ranney and John Comstock defendants, and that the same are true and correct copies thereof and therefrom, the original of which are now on file.

In testimony whereof I have set my hand and affixed the seal of said court, at Duluth, on this 10th day of Feb-uary, A. D. 1886.

H. A. KUCHLI, *Clerk,*
By ED. F. KRELENTZ, *Deputy.*

30 STATE OF MINNESOTA, } ss:
County of Ramsey, }

Phillip M. Ranney & John Comstock, by C. K. Davis, their attorney, and Cushman K. Davis and James J. McCafferty came personally before me on this 2nd day of Feb-uary, A. D. 1886, to me well known to be the same persons who executed the foregoing bond, and each acknowledged the same to be his own free act and deed.

C. W. SEVERANCE,
Notary Public, Ramsey County, Minn.

STATE OF MINNESOTA, } ss:
County of Ramsey, }

Cushman K. Davis & James J. McCafferty, being first duly sworn, doth say, each for himself, that he is the same person at the surety above named and is a resident and freeholder of and in the ——, State of Minnesota, and worth the sum of five hundred dollars above his debts and liabilities and exclusive of his property exempt from execution.

CUSHMAN K. DAVIS &
JAMES J. McCAFFERTY.

Subscribed and sworn to before me on this 2nd day of Feb., A. D. 1886.

C. W. SEVERANCE,
[SEAL.] *Notary Public, Ramsey County, Minn.*

(Endorsed:) Filed June 22nd, 1886. Oscar B. Hillis, clerk.

31 United States Circuit Court, Minnesota. In Equity.

ROBERT B. LANGDON }
vs.
PHILLIP M. RANNEY *et al.* }

It is stipulated that the answer herein shall also stand and be considered as a cross-bill; that the complaint shall stand as the

answer to such cross bill, and that in all points not covered by said complaint the answer as such cross-bill shall be considered fully at issue; all replication is waived.

That the issue in original suit and on cross-bill shall be heard and determined together and the testimony be taken in them together.

SEARLES, EWING & GALE,
Solic. for Pl'ff.

H. C. BAKER,
C. K. DAVIS, *Solic. for D'f'ts.*

(Endorsed:) Ent. 420 C. Cl. U. S. cir. c't, dist. of Minnesota. R. B. Langdon *vs.* Phillip M. Ranney. Copy of stipulation in plan of original. Filed May 2, 1887. Oscar B. Hillis, clerk.

32 United States Circuit Court, District of Minnesota.

Term Minutes, Dec. Term, 1887, Dec. 12th, 1887.

ROB'T B. LANGDON
vs.
PHILIP M. RANNEY *et al.*

This cause coming on to be heard upon the pleadings, final proofs, and arguments of counsel, the complainant appears by his attorney, J. N. Searles, Esq., and the defendants by their attorneys, J. N. Lusk, Esq.

Thereupon said motion is fully argued, duly submitted, and by the court taken under advisement.

33 U. S. Cir. Ct., Dist. of Minn.

R. B. LANGDON
vs.
P. M. RANNEY *et al.* } May, 1888.

NELSON, *J.*:

A re-argument ordered for June term of circuit court, 1888.

(Endorsed:) Filed May 19, '88. Oscar B. Hillis, clerk.

34 United States Circuit Court, District of Minnesota.

ROBERT B. LANGDON, Plaintiff,
vs.
PHILIP M. RANNEY and JOHN COMSTOCK, Defendants. } In Equity.

To the honorable judges of the United States circuit court for the district of Minnesota:

The complainant in the above-entitled case hereby humbly prays that the court will rehear and reconsider the matters involved in the written opinion and direction for the entry of a decree herein,

so far as the same denies to the complainant the right to have the decree for the defendants modified so that—

1st. The land contracts that covered the lands mentioned in Exhibits B and C, attached to the bill of complaint, be delivered to complainant within a time to be specified by the court.

2nd. That the period in which complainant is allowed to make a final payment of $9,856.50 be made to commence from the time of delivery of said contracts by the defendants to the complainant.

The grounds of this application are that the court in its decision, as evidenced by its written opinion filed on the — day of July, 1888, giving its reasons therefor, has inadvertantly overlooked the fact that in any event, whether complainant is entitled to com-
35 pensation for loss of the so-called Jewet contract (which compensation the court denies in the opinion which has been rendered), defendants are to deliver the other contracts covering lands described in Exhibits B and C, the lands having been fully paid for and the railroad contracts covering them being, according to all the evidence, deliverable on such payment.

On account of the error above referred to, which will be made more apparent by reference to the accompanying brief, and to the end, therefore, that equity being done and that this court may, upon fuller consideration and with the advantage of an oral argument, revise its former opinion (if a revision be proper), your petitioner prays that the court may be pleased to take their suggestions under consideration and grant a rehearing upon the arguments aforesaid, and grant such other relief and order as in equity and good conscience may be proper.

Stillwater, Minn., Sept. 5th, 1888.

(Signed) SEARLES & GAIL,
Solicitors for Complainant.

36 United States Circuit Court, District of Minnesota.

R. B. LANGDON
vs.
P. M. RANNEY *et al.*

I think there is little question as to the rights of these parties. Included in a land contract between Sabin and Ranney was an option on certain lands given by one Jewett to Ranney. Sabin never exercised the option, gave any notice, or paid any money to Jewett. As assignee of that option contract he could have perfected title, but failed to do it; that is all there is of it.

Ranney is entitled to a decree on his cross-bill as prayed for, unless within 90 days from the date of this decree the $9,868.50 and interest be paid.

D. J. BREWER, *Judge.*

Endorsed: Filed July 12, 1888. Oscar B. Hillis, clerk.

37 SEPT. 14, '88.

The argument of counsel on petition for rehearing does not change my opinion as to legal rights of parties, and the decree is therefore signed and petition for rehearing denied.

D. J. BREWER, *Judge.*

38 United States Circuit Court, District of Minnesota.

Term Minutes, June Term, A. D. 1888, Sept. 17th, 1888.

ROBERT B. LANGDON
vs.
PHILLIP M. RANNEY and JOHN COMSTOCK.

This cause came on to be heard at the June term of the above-named court for 1888, Honorable David J. Brewer presiding.

This cause having been duly brought on for argument before the above-named judge, the same being duly at issue and the testimony having all been taken therein, to wit, on the 22nd day of June, 1888, and counsel for the respective parties having been duly heard, it is ordered, adjudged, and decreed that there is due the defendant Phillip M. Ranney on account of the contract of sale referred to by the parties in their pleadings and entered into by said Ranney, on the one part, and one D. M. Sabin, on the other part, and dated Sept. 16, 1884, the sum of nine thousand eight hundred and sixty-eight dollars and fifty cents, with interest thereon, at the rate of eight per cent. per annum, from the said 16th day of September, 1884, and said plaintiff, Robert B. Langdon, is the assignee of said Sabin and took said contract subject to the terms and obligations thereof.

Further, it appearing that the several deeds and contracts referred to by the parties in their pleadings are now by the written stipulation of the parties hereto on deposit with and under the control of the clerk of this court, that said plaintiff pay unto

39 the clerk of this court for the defendant Phillip M. Ranney the amount aforesaid adjudged due to said Ranney on account of said contract, with interest and costs, within ninety days after the entry of this judgment and service of notice of the entry of this judgment on the plaintiff's attorneys herein; that upon such payment to said clerk the said clerk is hereby ordered and directed to deliver up to said plaintiff or his attorneys all of the said deeds and contract and writings in his custody or control, and receipt to said plaintiff for said money and deliver said money to the attorneys of the said Phillip M. Ranney in person, and take his or their receipt therefor.

It is further adjudged and decreed that in default of the said plaintiff paying unto the said clerk of this court said sum of money aforesaid, with the interest and costs of this action, by the time above limited for that purpose, then it is adjudged and decreed hereby that the said plaintiff and all persons claiming by, from, or under him do stand absolutely debarred and foreclosed of and from all equity

of redemption of, in, and to the said deeds and contracts so held by the clerk of this court as aforesaid and under his control — be thereupon delivered to the said defendant, Phillip M. Ranney, or his attorneys, and the said Phillip M. Ranney do have and recover of and from the said plaintiff the sum of — dollars, costs and disbursements incurred in and about the defense of this action.

By the court:

DAVID J. BREWER, *Judge.*

Sept. 14th, 1888.

40 United States Circuit Court, District of Minnesota.

ROBERT B. LANGDON, Plaintiff, *vs.* PHILLIP M. RANNEY and JOHN COMSTOCK, Defendants. } Affidavit of Disbursements; Notice of Taxation of Costs.

Costs and Disbursements.

Statute costs	$20
Disbursements:	
Sheriff's fees, 4 affidavits	1
Jury fee	
Clerk's fees (to be taxed)	27 90
Witnesses' fees	
Cash paid clerk of court for taking testimony	44 87
Cash paid reporter, H. H. Horn, for taking testimony	7 50
Cost, taxed at	101 27

(Signed) OSCAR B. HILLIS, *Clerk.*

STATE OF MINNESOTA, *County of Ramsey,* } *ss:*

J. W. Lusk, being first duly sworn, doth depose and say that he is one of the attorneys of the defendant in the above-entitled cause; that the foregoing is a true and correct statement of the costs and disbursements of said defendants in the above-entitled proceeding, and that all of the items of such disbursements have been actually and necessarily paid or incurred therein by and on — behalf.

41 J. W. LUSK.

Subscribed and sworn to — me on this 6 day of October, 1888.

[L. S.] ——— ———,

Notary Public, Ramsey County, Minn.

42 United States Circuit Court, District of Minnesota.

ROBERT B. LANGDON, Complainant, *vs.* PHILLIP M. RANNEY & JOHN COMSTOCK, Defendants. }

The above-named complainant, conceiving himself ag-rieved by the final decree herein entered on the 17th day of September, A. D.

1888, in the above-entitled cause, doth hereby appeal therefrom to the Supreme Court of the United States, and he prays that this his appeal may be allowed; that a transcript of the record, proceedings, and evidence in the cause, duly authenticated, may be sent to the Supreme Court.

Dated December 17th, A. D. 1888.

SEARLES & GAIL,
Solicitors for Complainant.

The foregoing appeal is hereby allowed.

Dated St. Paul, Minnesota, gen. term of said court, this 19th day of December, A. D. 1888.

DAVID J. BREWER,
Circuit Judge.

(Endorsed:) Filed Dec. 19th, 1888. Oscar B. Hillis, clerk.

43 United States Circuit Court, District of Minnesota.

ROBERT B. LANGDON, Complainant and Appellant,
vs.
PHILIP M. RANNEY and JOHN COMSTOCK, Defendants and Respondents.

Know all men by these presents that we, Rober B. Langdon, Jacob Bean, and James S. O'Brien, of the State of Minnesota, are held and firmly bound unto Philip M. Ranney and John Comstock, their executors or administrators, in the sum of ten thousand dollars ($10,000); to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, and administrators firmly by these presents.

Sealed with our seals. Dated this 19th day of December, A. D. 1888.

Whereas the above-named Robert B. Langdon has appealed to the Supreme Court of the United States from that certain judgment heretofore rendered in the above-entitled action on the 17th day of September, A. D. 1888, by the above-named court:

Now, therefore, the condition of this obligation is such that if the above-named Robert B. Langdon shall prosecute his said appeal with effect and answer all costs and damages if he shall fail to make good his said appeal and abide the judgment of the said Supreme Court in the premises, then this obligation shall be void;

44 otherwise to remain in full force and virtue.

ROBERT B. LANGDON. [SEAL.]
JACOB BEAN. [SEAL.]
J. S. O'BRIEN. [SEAL.]

Signed, sealed, and delivered in presence of—
J. N. SEARLES,
Witness to signature of Jacob Bean.
J. N. SEALES,
Witness to signature of J. S. O'Brien.
O. F. BECK AND J. N. SEALES,
Witness to Signature of R. B. Langdon.

UNITED STATES OF AMERICA, } ss:
District of Minnesota, }

Be it remembered that on this 19th day of December, A. D. 1888, before the undersigned, notary public in and — the county of Washington, in the State of Minnesota, personally appeared Jacob Bean and J. S. O'Brien, personally known to me to be the identical individuals who executed the foregoing instrument, and each for himself duly acknowledged that he executed the same freely and voluntarily for the uses and purposes expressed.

J. N. SEALES,
Notary Public, Minnesota.

45 UNITED STATES OF AMERICA, } ss:
District of Minnesota, }

Jacob Bean and J. C. O'Gorman, being each duly sworn, doth depose and say, each for himself, that he is worth th- sum of ten thousand dollars ($10,000.00) over and above all his just debts, liabilities, and property exempt from execution, and is a resident freeholder of the State of Minnesota.

JACOB BEAN.
J. S. O'BRIEN.

Subscribed and sworn to before me this 19 day of December, A. D. 1888.

(Signed) *JCT.* SEARLES,
Notary Public, Minn.

UNITED STATES OF AMERICA, }
District of Minnesota. }

Be it remembered that on this 19th day of December, A. D. 1888, before the undersigned, notary public in and for the county of Ramsey, in the State of Minnesota, personally appeared Robert B. Langdon, personally known to me to be the identical individual who executed the foregoing instrument, and for himself duly acknowledged that he executed the same freely and voluntarily for the uses and purposes expressed.

(Signed) E. F. BECK,
Notary Public, Minnesota.

UNITED STATES OF AMERICA, } ss:
District of Minnesota, }

Robert B. Langdon, being duly sworn, doth depose and say for himself that he is worth the sum of twenty thousand dollars ($20,000.00) over and above all his just debts, liabilities, and property exempt from execution, and is a resident freeholder of
46 the State of Minnesota.

ROBERT B. LANGDON.

Subscribed and sworn to before me this 19th day of December, A. D. 1888.

(Signed) E. F. BECK,
Notary Public, Minnesota.

I approve the above bond and the sufficiency of the sureties thereto.

(Signed) DAVID J. BREWER,
Circuit Judge.

Indorsed: Filed Dec. 19th, 1888. Oscar B. Hillis, clerk.

47 And afterwards, to wit, on the 2nd day of May, 1887, a stipulation as to custody of deeds, contracts, &c., was filed; which said stipulation is in the words and figures following, to wit:

Stipulation as to Custody of Deeds, &c.

48 It is hereby stipulated that certain deeds and contracts delivered to Col. J. C. Spooner, of Hudson, Wis., by D. M. Sabin and P. M. Ranney on the 16th day of Sept., 1884, with all papers and memoranda pertaining thereto, be delivered by said Spooner to John Comstock, of Hudson, Wis., to be held by said Comstock upon the same terms as they were held by said Spooner, and that the rights of R. B. Langdon, to whom said Sabin has heretofore assigned and transferred all his rights in said deeds and contracts, and said Ranney shall be precisely the same after said papers have been so delivered to said Comstock as though they had remained in the hands of said Spooner.

The object of such change of custody being to relieve said Spooner at his request from further responsibility in the matter.

Dated this 30th day of October, 1885.

R. B. LANGDON,
By J. N. SEARLES,
His Attorney.
P. M. RANNEY,
By H. C. BAKER,
His Attorney.

(Endorsed:) Filed May 2nd, 1887. Oscar B. Hillis, clerk.

49 Circuit Court of the United States, District of Minnesota.

R. B. LANGDON, Plaintiff,
vs.
PHILIP M. RANNEY, Defendant.

Parties being present, by their attorneys, the testimony was taken in this action before O. B. Hillis, Esq., on the 2nd day of May, 1887, according to the stipulation hereto annexed.

Messrs. Searles, Ewing & Gail appeared for the complainant; Messrs. Baker & Smith and Messrs. Lusk & Bunn appeared for the defendant.

Plaintiff offers in evidence an instrument dated Sept. 16th,
50 1884.

The same is marked Plaintiff's Exhibit "A."

Objected to as immaterial and incompetent. It is admitted that

Exhibit "A" is the original instrument that was left with John C. Spooner, together with other papers which are referred to in said Exhibit "A."

Plaintiff also offers in evidence an envelope which is endorsed as set out thereon in the handwriting of Philip N. Ranney, the same being one of the envelopes that were left with John C. Spooner under Exhibit "A."

The same is marked Plaintiff's Exhibit "B."

The introduction of the envelope is objected to as immaterial and incompetent.

Plaintiff offers in evidence certain papers which were enclosed in envelope Exhibit "B," as follows:

51 A contract between the defendant P. M. Ranney and W. P. Jewett, dated May 28th, 1884.

Also a- assignment thereof by the defendant under date of September 16th, 1884, attached thereto.

The same is marked Plaintiff's Exhibit "C."

Complainant then offers in evidence six certificates, numbered 80, 82, 83, 84, 85, 86, dated June 5th, 1883, together with the endorsements on the back thereof.

The same are marked Plaintiff's Exhibit "D" 1 to "D" 6, inclusive.

Complainant also offers in evidence sixteen contracts between the land department of the Minnesota Central Railroad Company and the defendant P. M. Ranney, together with the endorsements on the back thereof.

The same are marked "E" 1 to "E" 16.

It is understood that the Exhibits "C," "D," and "E" herein were in the envelope marked Exhibit "B" hereof.

52 Another envelope is offered in evidence by plaintiff, with the endorsements on same, which are in the handwriting of P. M. Ranney, the defendant.

Said envelope is marked Plaintiff's Exhibit "F."

The contents of said envelope are as follows, to wit:

A list of lands marked Exhibit "G;" a deed marked Exhibit "H;" a deed marked Exhibit "J;" a deed marked Exhibit "K;" also a mortgage deed marked Exhibit "L," with the name of the mortgagor in blank, running to the defendant P. M. Ranney.

All these exhibits are offered in evidence and received without objection.

Another envelope is offered in evidence by plaintiff, with the endorsements thereon, and marked Plaintiff's Exhibit "M."

53 The plaintiff also offers in evidence five certificates and five abstracts of title which are received and marked Plaintiff's Exhibit "N" 1 to "N" 10, inclusive.

It is agreed that all the foregoing exhibits were papers that were left with John C. Spooner in accordance with the agreement set out in Exhibit "A."

PHILIP M. RANNEY, sworn on behalf of the complainant, testifies:

Examined by Mr. SEARLES:

Q. I call your attention to the lands described in Exhibits K, J, & H, and ask you if those were lands that you were to convey by warranty deed to Mr. Sabin under the terms and conditions of the contract.

A. There was a deed of lands that I was to deed in blank
54 and put into Mr. Spooner's hands.

Q. Have you got a sufficient title so that you could make a conveyance of them?

A. I had.

Q. How have you now?

A. As far as I know, I have.

Q. Have you made a conveyance to any other parties of any of these lands?

A. No, sir.

Q. I ask you if that paper—these entries in ink, not those in pencil—if the contracts are in your handwriting.

A. Yes, sir.

Q. What do the figures in the right-hand column represent?

A. The estimated amount of pine on the lands.

Q. I ask you if this is a list of lands described in these deeds and the Jewett contract and the land contracts put in evidence—whether it was prepared with that object.

A. It is supposed to be a correct list.

Mr. LUSK: A correct list of what?

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55 From Mr. Sabin to Mr. Langdon, dated August 27th, 1885, and the same is received and marked Plaintiffs' Exhibit "P."

Complainant also offers in evidence a statement of the attorneys for the parties to this suit, being Mr. Spooner's statement as to what took place, and contains admissions of the parties, dated October 26th, 1885, being written on three sheets of paper in Mr. Spooner's office.

Objected to as immaterial and incompetent.

Complainant also offers in evidence a statement of an extension of time granted.

Received without objection and marked Plaintiff'- Exhibit "R."

D. M. SABIN, sworn on the part of the complainant, testifies:

Examined by Mr. SEARLES:

56 Q. You are the party that made this original contract with Mr. Ranney with reference to the matters that are spoken of in these deeds and contracts that have been offered in evidence?

A. I am.

Q. With reference to that Jewett contract, Exhibit "C," what was your agreement with Mr. Ranney touching that contract?

Objected to for the reason the contract is in writing and is the best evidence.

A. That contract, like the others, was embraced in a general deal for some lands upon the St. Louis river, up in St. Louis county, I think, or one of those various counties that are named in the contract.

Q. Perhaps you had better state your whole contract. Part of it culminated in this paper, but our special controversy now is with regard to this contract. I want to know what rights Mr. Raneyy was to give you with reference to that—I mean that Jewett
57 contract.

The same objection as the last, and also to any parol testimony with reference to that contract.

Q. To put you in his place with regard to that contract?

A. He was to turn over that contract, with others, to me, I think, at the end of the year, or such a term—it is noted in the agreement.

Q. That was left with Mr. Spooner?

A. Yes.

Q. (Exhibit "A" shown witness.) Read that, please.

A. I remember the general purport of this agreement.

Q. That is your signature, is it?

A. Yes, sir.

Q. Were any of these papers delivered to you?

A. No, sir; they were not.

Q. Did you pay the $3,000 at the time of the delivery of this paper?

A. I did.

Q. And afterwards paid the $3,000 note that is spoken of here?

A. I did.

58 Q. Is this Exhibit "O" a list of lands that are included it this deal?

A. It is.

Q. That is the list that Mr. Ranney handed to you, is it?

A. Yes, sir.

Q. At the time was there any estimate given you by Mr. Ranney of the value of these lands included in the Jewett contract?

Objected to as immaterial and incompetent under the pleadings.

Q. Will you state as to the general deal—what I am getting at now is, what, if any, representations did Mr. Ranney make to you with reference to the value of stumpage on lands described in the Jewett contract?

(The same objection.)

Q. I am speaking now of the value.

A. The paper was given to me. We had a general talk,
59 which was that they ought to be worth at least $1.00 to $1.50 a thousand, and the defendant was to secure the title to it.

Q. Had you examined these lands yourself at that time?

A. I had not.

Q. Did you have any knowledge of what was on the lands, except that Mr. Ranney informed you at that time?

A. Nothing except his assurances that they had been examined by careful examiners and that the estimate would overrun rather than fall short.

Q. How long have you been dealing in pine lands in this portion of the State where these lands are situated?

A. I have been more or less interested for the last 6 or 7 years and have a general knowledge and information about it.

Q. Have you any knowledge of what would be the market value of this timber on these lands—that is, supposing that there
60 was the amount of stumpage in Exhibit "O"?

Objected to as immaterial and incompetent.

A. I should think it would be worth $1.50 a thousand.

Cross-examination by Mr. LUSK:

Q. (Paper shown witness.) Is that your signature to that paper?

A. Yes, sir; it is.

Q. Is that the contract that you entered into in relation to this transaction with Mr. Ranney?

A. That seems to be dated the same day as this other one. That is the contract which was made, evidently, as being signed by both parties. Mr. Ranney made out several memoranda.

Mr. SEARLES: To which do you refer?

A. I refer to the contract signed by both parties.

Mr. SEARLES: That is Exhibit "A."

Contract dated September 16th, 1884, offered in evidence
61 by defendant and marked Defendant's Exhibit No. 1.

Q. Do you recollect the circumstances under which this letter marked Exhibit "A" was written to John C. Spooner by Mr. Ranney? Can you recall to your mind the way that letter came to be written to John C. Spooner?

A. My recollection is that Mr. Ranney wanted to leave all of the papers in escrow with Mr. J. C. Spooner. He was rather looking to him as his attorney in the matters generally, and I had no objection at all to it. I simply acquiesced in his proposition.

Q. Do you know whether J. C. Spooner was Mr. Ranney's attorney at all at that time?

A. No, sir; I do not.

Q. Was Mr. Spooner your attorney?

A. Not that I know of; not that I remember.

Q. What?

62 A. Mr. Spooner has done more or less business for matters I have been interested in.

Q. Were you about that time interested with Mr. Spooner to quite a large extent in business matters?

A. Not that I recollect.

Q. Did you own lands together in which you both had interests in at that time?

A. I think I had a contingent interest in some lands which Mr. Spooner and Mr. Baker bought originally. I don't remember just what they were.

Q. Were you jointly interested at that time?

A. I can't say I had any interest in the lands at the time they had been turned over. There were payments due then that I couldn't meet. I simply had a contingent interest, as I remember, provided I paid that.

Q. I am speaking of September, 1884.

A. Yes, sir.

Q. At that time you met your payments?

A. I have no recollection of it.

63 Q. You were not in embarrassed circumstances at that time?

A. Somewhat; yes, sir; considerably so.

Q. At the time you made this contract with Mr. Ranney?

A. Yes, sir.

Q. Do you recollect which of these papers you signed first, the contract which purports to be on its face a contract and is simply signed by you, or this letter from Mr. Ranney to John C. Spooner? Can you recollect which of the two writings was entered into first?

A. No, sir; I cannot. I was in the office making up general memoranda; I have no recollection.

Q. Do you recollect having a conversation with Mr. Ranney, and requesting him to write this letter to Mr. Spooner?

A. No, sir.

Q. Do you have any recollection of particularly requesting him to write this letter to Mr. Spooner?

64 A. No, sir.

Q. Do you have any recollection of particularly requesting him to write this letter to Spooner, and to avoid stating in the letter the consideration that you were paying?

A. No, sir.

Q. You don't recollect that?

A. No, sir; I do not.

Q. Simply and solely because you didn't care to have persons know anything about the consideration of this contract?

A. No, sir; there was no reason for any such request whatever existing at that time or any other time.

Q. Simply as a business man sometimes does not care to have published to the outside world what he does. There is nothing dishonorable in that.

A. There was nothing in my relations with Mr. Spooner and Mr. Ranney about any covering up; nothing of that kind.

65 Q. I didn't call it covering up. It was simply your requesting him not to state to the public what the consideration was; that you desired to have that kept between you and Mr. Ranney. Do you recollect anything of that kind, any such conversation?

A. No, sir; I do not.

Q. Will you swear there was no such conversation?

A. I can conceive of no such conversation whatever—of no such circumstance that should occasion such request; nothing of the kind; nothing whatever. There was a great deal of desultory talk and general talk about my own matters there. There might have been something said with reference to Mr. Spooner and his connection with it at the time. I don't claim to remember exactly.

Q. After the making of this contract marked Defendant's Exhibit No. 1 did you at any time prior to the 1st day of December,
66 1884, notify Mr. Jewett that you would take the lands described in the option contract you bought?

A. No, sir; I did not.

Q. Did you take any steps whatever prior to the first day of December, 1884, by yourself or attorney or any one else to notify Mr. Jewett that you made your election to take the lands described in the Jewett contract?

A. No, sir.

Q. You took no steps whatever towards that project?

A. No, sir; I did not.

Q. Do you recollect Mr. Ranney having a conversation with you in November, 1884, in regard to the time being about to elapse when you could exercise your option under the Jewett contract?

A. I do not.

Q. You have no recollection of any such conversation with him?

A. No, sir.

Q. No recollection whether you had any such conversation or whether you had not?

67 A. I had a conversation with Mr. Ranney with regard to stock. I remember that.

Q. That I am not talking about.

A. Not with regard to the land matters.

Q. Have you a recollection with regard to your conversation with Mr. Ranney so clear that you are enabled to swear positively that you did not have any conversation with him in November in relation to the Jewett contract?

A. I have.

Q. That you did not have any?

A. That I did not.

Q. In November, 1884, you had an office in Stillwater?

A. I did.

Q. Do you recollect Mr. Ranney being there to see you about it in your office there in November, 1884?

A. I don't remember any such circumstance.

Q. You spoke a few moments ago that you recollected having some talk with him about stock matters. Was that in November, 1884?

68 A. I think it was. I am certain it was.

Q. You recollect it was there?

A. No, sir; I don't.

Q. Where was it you had this conversation with him?

A. On the steps of the Gilfillan block, in St. Paul.

Q. Did he come to you- office in 1884, in the month of November, at all?

A. I don't think he did.

Q. Will you state positively?

A. I wouldn't swear he didn't come to my office. It was a very usual course for a good many people to come to my office on different matters.

Q. Did he come to your office at Stillwater in November, 1884, and say to you that the year's time for making your election under the Jewett contract, whether you would take the land or not, would expire in a short time, and, if you were going to do it, you had better do it at once, and di- you reply to him that you
69 couldn't meet it, you couldn't make the payments, and you were going to abandon the whole thing, or words to that effect?

A. I did not.

Q. Did you ever read the Jewett contract?

A. I can't say that I ever did. My impressions are he told me what it was, and I relied in all our matters on his representations on the 16th of September, when the deals were made.

Q. You knew when this deal of September 16th was made that under the deal for part of the lands you were going to get warranty deeds?

A. Yes, sir.

Q. And you understood also that the balance of the land what was coming to you was coming through the Minnesota Central Railway Company contracts?

A. I knew there was certain contracts that covered that. He gave me a description of the amount of stumpage that was on them and the location.

Q. You also understood enough to know that the Jewett
70 contract was a mere option to take it by making your election before a certain time?

A. I don't think there was any time about the expiration of any contract.

Q. You understood that the Jewett contract was an option contract; you understood that much?

A. I can't say I did. My whole knowledge and expectation was to get 44,000,000 of stumpage up there for the money involved, which I thought was a good trade.

Q. You didn't expect to get warranty deeds for all that land?

A. I expected that I was going to get sufficient deeds from him for the land.

Q. What warranty deeds were to come from him?

A. Those lands he had on hand. The other he would own when he carried out this contract.

Q. You understood of the other lands you were to take an assignment of certain contracts?

A. Yes, sir.

71 Q. You understood that much?

—. Yes, sir; which he was to perfect the title on. I understood that these things were to be done by Mr. Ranney. I was very busy.

Q. You never have paid the last payment or made any attempt to pay this $9,868.50?

A. It was not due until long after this trouble commenced.

Q. It is due now?

A. Yes, sir; but the suit was commenced before it was due, if I remember right. I transferred all my rights in this, as I did in many other things, in payment of my debts.

Q. You never offered to pay this $9,868.50?

A. No, sir.

Redirect examination by Mr. SEARLES:

Q. With regard to this contract, Exhibit "A," and this contract, Exhibit No. 1, both of these exhibits are in Mr. Ranney's handwriting, are they not?

A. Yes, sir.

72 Q. This paper, Exhibit "A," is the only paper that was to be left with Mr. Spooner?

A. I so understood; yes, sir.

Q. These two papers differ in this respect: This one, Exhibit "A," that was left with Mr. Spooner, says that this contract was to be delivered up when this $3,000 was paid, and the other, Exhibit No. 1, contains language which might be construed to the effect that nothing was to be delivered up until the final $9,868.50 was paid, which was to be paid a year afterwards. In view of that apparent conflict I wish you would state what was the actual agreement between you and Mr. Ranney as to what was to — turned over to you when this $3,000 was paid.

Objected to as immaterial and incompetent, because it tends to vary the contract, Defendant's Exhibit No. 1.

73 Q. I wish you to explain what was the actual agreement between you and Mr. Ranney, or, in other words, whether the contracts which are mentioned in this Exhibit "A," which were left with Mr. Spooner, were to be delivered over to you when you paid that $3,000 note, or whether this as well as the deeds were to be withheld until you made the final payment.

A. I expected the contract turned over. The first payment was considered a sufficient payment and guaranty of the trade, and there was a stock trade of the Nelson Lumber Company that came in, and other contingent trades in prospect, and the general deals in pine lands up in these counties which Mr. Ranney and myself had agreed together over and had a general understanding about, of which it was understood he was to take charge. In fact, in the whole of the land interests, as far as perfecting titles and the

74 like of that, he was to give the benefit of his knowledge and his leisure time to perfecting them for me and carry through

these other trades. I was not as particular and specific about this matter as I would have been had I not reposed entire confidence in Mr. Ranney and in his good faith and friendship. I signed several memoranda in these various deals to satisfy him and quiet his fears of trouble coming in consequence of my financial embarrassment at that time. The understandings were generally with that deal in view, and his proposition to leave these matters in Mr. Spooner's hands was entirely satisfactory to me, and the further expectation of his making further trades with regard to these other lands simply induced me, as I said before, to sign other memoranda, and matters that went into Mr. Spooner's hands, which I supposed were put in business shape and to be handled at any time in accordance with the agreements.

75 The whole of the foregoing answer of the witness is taken subject to complainant's objection.

Q. At that time you signed these two papers, Exhibit "A" and Exhibit No. 1, did you compare them to see whether or not there was any discrepancy?

A. I did not.

Q. Did you know that they were different in any respect?

A. I did not.

Q. This Exhibit No. 1 you say you have never seen since?

A. I have not.

Q. Mr. Ranney took them away with him?

A. Yes, sir; I didn't have the other, either.

Recross-examination by Mr. LUSK:

Q. Let me refresh your recollection a little with regard to this contract, Exhibit No. 1. Didn't Mr. Ranney and you both keep copies of this, you keeping one and he one exactly like it?

A. I had no copy of it?

76 Q. Of Exhibit No. 1?

A. No, sir.

Q. Are you certain about that?

A. Yes, sir; I have never been able to find any.

Q. Isn't that all that you and Mr. Ranney had to show for this transaction and for money which you paid?

A. I supposed that Mr. Ranney — Spooner had all the papers that were sufficient.

Q. Isn't it a fact that this contract signed by you, dated September 16th, 1884, called Exhibit No. 1, was made in duplicate, and didn't you take one and Mr. Ranney the other?

A. I did not.

Q. Did you take a copy of it and leave Mr. Ranney the original?

A. I did not.

Q. And was not the reason and cause that Mr. Ranney kept that for his private use and you a copy or duplicate of it for your private use, and isn't that the reason the letter was written to Mr. Spooner instead of sending the contract to him?

77 A. No, sir; there was no such reason as that.
Q. Was Mr. Ranney at work for you?
A. No, sir; he was not.
Q. Was Mr. Ranney under your employ at a salary in any way?
A. No, sir.
Q. Were you jointly interested with him in any lands?
A. I was not. Mr. Ranney was in the Nelson Lumber Company. I was not the managing man of that.
Q. Have you at any time demanded of Mr. Ranney after you paid the $3,000 note that he deliver up to you those contracts?
A. No, sir; I have not personally.
Q. Or any one for you?
A. Mr. Langdon, I understood, did.
Q. At any time up to the time before this assignment which was made in August, 1885, did you or any one at your instigation prior to the making of that assignment demand of Mr. Ranney the
78 contract specified in that agreement or the letter to Spooner?
A. I did not.
Q. How soon after the making of that contract did you pay the $3,000?
A. 60 days, I believe.
Q. You paid it when it came due?
A. Yes, sir.
Q. Did you make any attempt to negotiate this contract or the lands described in this or the lands described in the deeds prior to the assignment that you made to Langdon?
A. Yes; I made attempts to negotiate them at or before and after the 16th of September. I can't give the exact dates.
Q. No; but after you made the contract with Mr. Ranney you tried to sell the contracts and the lands?
A. No; I tried to sell the lands.
Q. Didn't you have parties go and look up the lands and examine as to the value of them?
A. No, sir; not at that time.
79 Q. I mean after you made the contract and before you made the assignment to Mr. Langdon.
A. No, sir.
Q. Do you know a man by the name of Phipps?
A. I do.
Q. Didn't you have Mr. Phipps go to Mr. Spooner and get the papers, with a view of looking up the lands?
A. I don't think that I had any conversation with Mr. Phipps on the subject. I think it was entirely from Col. Spooner. Whatever information Phipps got, it was from Spooner.
Q. Did you tell him to go to Spooner?
A. No, sir. I have no recollection of it.

Redirect examination by Mr. SEARLES:

Q. After you made this contract with Mr. Ranney and before the Jewett contract or option expired had you had these lands examined

and ascertained that there was not enough to make it pay to put it through?

A. No, sir; I didn't. I didn't know when the Jewett option expired.

80 Q. You hadn't any memoranda?

A. No, sir.

Q. Nothing explaining what you had to do under it?

A. No, sir; nothing.

Q. You relied upon Mr. Ranney keeping that contract alive and turning it over to you when the note was paid?

A. Yes, sir.

Recross-examination by Mr. LUSK:

Q. What were those papers left with Mr. Spooner for?

A. Left in escrow with Mr. Spooner.

Q. If you had paid the whole consideration up at the time of making the contract would you have taken the paper yourself?

A. Certainly.

Q. It was left with Mr. Spooner, you say, in escrow, to be delivered up to you when you paid up?

A. They were left with Mr. Spooner under Mr. Ranney's suggestion—his fears that something might come up by which I might not be able to carry out the contracts, as I supposed. At
81 least, he was very much afraid that in all these troubles and suits pending in the car company and other mattess that I might find some embarrassments arising out of them, and he proposed to have it left with Mr. Spooner, and as he did the other matters.

Q. It was for his safety?

A. Yes, sir. I had no objection to it.

Q. You had no objection to it?

A. No, sir; not at all. I supposed it was all right.

Q. That paper was accessible to you if you wanted to see it at any time?

A. I suppose so.

Q. You never had any difficulty?

A. No, sir.

Q. You could have gone to Mr. Spooner and got them?

A. I could when he was at home. I have sent to Mr. Spooner frequently when he was away, and when he was at home frequently I was not.

Q. You don't recollect sending for these papers to Mr. Spooner and getting them?

A. No, sir.

82 Q. Don't you know that you and Mr. Ranney were able to go to Mr. Spooner's office and get those papers?

A. Yes, sir.

It is here admitted that these papers that were left with Mr. Spooner were turned over to Mr. Comstock by consent of the parties to be held by him under the same terms and the same agreement

that Mr. Spooner held them under; also that the same have been transferred by Mr. Comstock to the clerk of the U. S. circuit court in the city of St. Paul, to be held by him under the same arrangement, subject to the final judgment and order of the court in this case.

83 J. N. SEARLES, sworn on the part of the complainant, testifies and makes the following statement:

After this assignment was made to Mr. Langdon and after the interview and after the 26th of October, 1885, and prior to the bringing of this action I went down to Hudson for the plaintiff and made a demand on Mr. Comstock for the contracts which are referred to in Exhibit A, and he stated that he would not be able to surrender them without the consent of Mr. Ranney or his attorney, and if he procured it he would advise me. I never heard anything from it and there the matter dropped.

Attorney for complainant here states that he rests his case with the exception of reserving the right to put Mr. Jewett on the
84 stand to show what lands were available under that option on the first of December, 1884.

PHILIP M. RANNEY, sworn on his own behalf as the defendant, testifies:

Examined by Mr. LUSK:

Q. You have seen Defendant's Exhibit No. 1, which purports to be the contract between you and Mr. Sabin in this matter; when and where was that contract made?

A. That contract was made in Stillwater the 16th day of September, 1884.

Q. And signed by Mr. Sabin in your presence?

A. Yes, sir.

Q. State what you and Mr. Sabin did, each of you, in reference to a copy of the contract.

85 A. This was written out and Mr. Sabin took a copy of it, an exact copy.

Q. Which was written out first—that or the letter to Mr. Spooner?

A. This was written first.

Q. Exhibit No. 1 was written first?

A. Yes, sir.

Q. Did you make any other contract with Mr. Sabin than that contained in Exhibit No. 1?

A. No, sir.

Q. Relative to this matter?

A. No, sir.

Q. That is all the contract you made?

A. Yes, sir.

Q. You may state the circumstances under which you came to keep that contract and Mr. Sabin keep a copy of it and write the letter that you did to Mr. Spooner instead of leaving the contract

with Mr. Spooner. State fully the circumstances of that and why it was done that way.

A. I will have to go back. He said he would take the lands substantially as it is stated in there; and then the question came
86 up and he told me he didn't wish Mr. Spooner to know what these lands were costing him, and that letter was written to Spooner leaving that out, so that no one could tell from that letter how much was due and how much he paid for the lands.

Q. In the letter to Mr. Spooner I notice you authorize him to deliver up the contracts—not the deeds, but the contracts—when $6,000 should have been paid. In other words, when the $3,000 note should have been paid.

A. Yes, sir.

Q. Was there any agreement between you and Mr. Sabin that that should be done?

A. No, sir; there was no positive agreement. I would have felt willing, although it was to be held as security.

Q. If you wanted to hold it you claimed the right to hold it under this contract spoken of?

A. Yes, sir.

87 Q. At the same time you wrote Mr. Spooner that you were willing he should give them up on the payment of the $3,000 note?

A. Yes, sir.

Q. That was in the letter you wrote to him?

A. Yes; it was a letter of my own to him, and Mr. Sabin O. K.'d it.

Q. You may state how this contract and warranty deeds came to be left in the shape they were, with the name of the purchaser in blank.

A. That Mr. Sabin requested. This whole deal was to be settled up within 30 days. The contract says, "until I pay said Ranney or make some other satisfactory arrangement with him." It was to be settled up within 30 days. He was going to sell this land to other parties, and then the other party's name would be inserted in it. This was done to save going through so many hands.

Q. What did you get up these warranty deeds for?

A. He told me he wanted the deeds. I gave a year's time
88 on it and I supposed that he wanted to give mortgage. The arrangement was to be fixed up inside of a month. If he didn't give me this mortgage deed afterwards, then he was to give me some other satisfactory security. It was some time between the trade. I had time enough and I supposed the deal would go through. I didn't know that Spooner was coming into it—into the transaction—at all.

Q. And the idea of leaving the name of the purchaser blank was at his request, was it?

A. Yes, sir.

Q. And the depositing of all the papers with Mr. Spooner was, as Mr. Sabin has stated, as an escrow to secure you until it was fixed up?

A. Yes, sir.

Q. Until it was fixed up in some other way?

A. Yes.

Q. Did you have any talk with Mr. Sabin in November in relation to the Jewett contract and what he ought to do about it?

89 A. Yes, sir; I saw him in November, before the first of December, and told him; I reminded him about the expiration of the Jewett contract and suggested that if he wanted to keep that going he would have to notify Mr. Jewett—that is, if he wanted to keep these lands. He told me at that time he didn't think he would be able to take them; that he would have to pay $3.50 an acre to secure them. I suggested that maybe an extension of time could be got from Mr. Jewett, but he decided he couldn't take them; he would have to let this go; that he made up his mind that the balance of the lands were worth, without these, what he was to pay for them.

Q. Did he say anything to you in that conversation that he expected to make a contract with Porter and that Porter was going to take those lands, but that Porter had gone back on him, or anything of that kind?

90 A. Yes, sir. He stated that Mr. Porter had agreed to take the lands, but that he had gone back on him on the trade, and then he wanted me to take a half interest in the lands with him.

Q. Do you know anything with regard to Mr. Sabin after he made this contract with you and before December the first looking up these lands and attempting to make any trade with them? If so, just state what you know about it.

A. Except as far as I understood——

Q. From whom?

A. From Mr. Phipps. He had a list of the lands, or there was some deal whereby Porter or some other eastern man was going to examine the lands. I understood that the contracts—in fact all those papers were with Mr. Phipps—I think that was his name; he is the land commissioner of the Omaha road, I think.

Q. How did you know that? Did you go to Mr. Spooner's

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91 that that the papers were afterwards found in Mr. Phipps' office.

Q. When was that?

A. I think it was about the time of the last extension on that. I think it was along there. I couldn't state exactly. It was about the time of the last extension, between the time of the first and second extension.

Q. Was it prior to 1884?

A. No, sir; it was after 1884; that was in 1885.

Q. In regard to the Jewett contract that has been talked of here, did your sale to Mr. Sabin include anything more than your interest in the option contract?

A. I think it states "all right, title, and interest."

Q. These blank spaces in all these deeds were left blank for Mr. Sabin to fill them in, as he wanted to fill them in?

A. Yes, sir.

Q. He was authorized to fill them in as he wanted to?

A. Yes, sir.

92 Q. What did your interest in the Jewett contract consist in?

A. In the minutes of the land and my time spent in gathering those minutes.

Q. Was there any arrangement whatever or agreement between you and Mr. Sabin whereby you agreed to attend to making an election on the Jewett contract instead of him?

A. No, sir.

Q. None whatever?

A. No, sir.

Q. In relation to the Minnesota Central land contracts state whether or not you had fully paid the purchase price of these.

A. They were all paid. I have the receipts for them. They so state on the face of them.

Q. Were those fully paid up contracts?

A. Yes, sir; they were fully paid up land contracts; they state so on their face.

Q. The Jewett contract was just what it shows to be on the face of it—a mere option contract?

A. Yes, sir.

93 Cross-examination by Mr. SEARLES:

Q. Exhibit No. 1, I understand you to say, was made first?

A. Yes, sir.

Q. And you say that Mr. Sabin retained a copy of it?

A. Yes, sir.

Q. That was on the understanding that the deal was to be closed up within 30 days?

A. Well, yes; it was to be closed up——

Q. And after that it was arranged that the papers should be left with Mr. Spooner?

A. Yes, sir.

Q. And then this Exhibit "A" was made after that and taken by you and left with Mr. Spooner with the papers?

A. Yes, sir.

Q. Now, you say that your interest in the Jewett contract was such then that you were not to do anything towards exercising this option?

A. That was when I owned it?

Q. No; after you made this agreement?

A. No, sir. You say Mr. Sabin was not to have this con-

94 tract delivered to him until the $9,868.50 was paid—which was not due for a year afterwards?

A. I say that those contracts were held as security.

Q. That means that Mr. Sabin had no right to this Jewett contract until he made the final payment of $9,868.50?

A. According to that first agreement he was not to——

Q. The second agreement is about the same thing, about the amount that was to be paid. He was to pay $9,868.50 a year after?

A. Yes, sir; a year after.

Q. He was not to have any right to that Jewett contract until that final payment was made?

A. Yes; but, mind you, within 30 days the whole thing was going to be finally settled up.

Q. But afterwards you signed this paper that was left with Mr. Spooner—this Exhibit "A." This letter to Spooner was the last writing you and Sabin signed at the time you came to your
95 agreement?

A. Yes, sir; that is what Mr. Spooner was to go by.

Q. It represented your understanding?

A. It represented Mr. Sabin's request that I should send the statement to him.

Q. That represented the terms upon which you and Mr. Sabin left these papers with Spooner?

A. Yes, sir.

Q. It was drawn up after this other writing?

A. Yes, sir.

Q. Because when you drew up this Exhibit No. 1 it was not contemplated that you were to leave any paper with Mr. Spooner?

A. No, sir.

Q. Did you understand that Mr. Sabin had any right to this Jewett contract until he paid this final payment?

A. I understood this was to be held for me for the nine thousand-odd dollars.

Q. That was not to be paid; Mr. Sabin did not agree to pay that until a year afterwards?

96 A. He agreed to arrange for it in some way within 30 days?

Q. Here is your first agreement, Exhibit No. 1, "also the further sum of $9,868.50, which I agree to pay within a year from this date."

A. Yes, sir.

Q. Mr. Sabin at no time agreed to pay you that sum of $9,868.50 inside of a year from that date—absolutely agreed to pay it?

A. No, sir; not absolutely.

Q. You understood he was to have no rights to this Jewett contract until this payment was made?

A. I supposed some other satisfactory arrangement would be made whereby he would get it.

Q. These papers were left with Mr. Spooner under the terms of that agreement that was left with him?

A. Yes, sir.

97 Q. Then Mr. Sabin had no right to go to Mr. Jewett and tell him that he would exercise the option and purchase these lands until he had completed his payment of this $9,868.50.

A. I had told Mr. Jewett I had sold the land.

Q. I am speaking about the arrangement you say you made with

Mr. Sabin. According to your understanding Mr. Sabin had no right to withdraw this contract from Spooner and go to Mr. Jewett with it and notify him that he desired to exercise the option privilege?

A. I think he had that privilege.

Q. Under that contract had he that privilege?

A. Under the contract?

Q. Yes; under that contract had he that right?

A. I don't think that under that first contract he would have the right to demand it.

Q. And under the contract or letter that was left with Mr. Spooner he would not have had that right?

A. That is a question.

98 Q. You are willing to have that letter represent your understanding?

A. As far as it goes to this contract.

Q. As far as it goes?

A. Yes, sir; as far as it goes to that Jewett contract.

Q. Then when Mr. Sabin had paid that $3,000 note he was entitled to take out of Mr. Spooner's hands all these contracts, including the Jewett contract?

A. Yes, sir; I should think so. That is the letter I wrote to Mr. Spooner.

Q. Then you didn't understand when you left these papers with Mr. Spooner and that letter that you had the right to withhold from Mr. Sabin any of these papers that were included in that envelope marked contracts?

A. I considered under that contract——

99 Q. You endorsed on that envelope, "To be delivered Sabin on payment of $3,000 note and interest, 60 days, from September 16th, 1884." You wrote that, didn't you?

A. Yes, sir.

Q. That was your understanding, was it not?

A. It was the understanding that——

Q. Did you have this conversation with Mr. Sabin about exercising this option after he had paid this $3,000 note?

A. I think it was just before the time. I know I advised him to go over there.

Q. Did he understand that he had the right by virtue of that payment of that note to take that contract?

A. I don't know.

Q. If he understood that he had the right by virtue of having paid that note to take that contract, why did you go to him and interfere with the matter? You had no right to interfere with it.

Q. It was simply a matter of accommodation to him.

Q. Did you propose to go and exercise the option in your own name?

A. No, sir.

100 Q. If he did anything you were to do it for him?

A. No, sir; I considered the lands were his. He had made the bargain for the lands and I had no further interest in them.

Q. At that time did you understand that Mr. Sabin had the right to withdraw that contract from Mr. Spooner and exercise the contract which the Jewett contract had given him?

A. I considered he had the right to notify Mr. Jewett that he would take these lands.

Q. Do you think he had the right to withdraw the contract from Mr. Spooner to exercise the right or option which the Jewett contract had given him?

A. I doubt that he had the right to withdraw all the papers included in that envelope marked "contract" from Mr. Spooner's hands.

Objected to.

I don't think he had that right in accordance with the contract. I don't think he would.

101 Q. I want your understanding as to that matter, because these two papers conflict somewhat; not according to these writings, but according to your understanding.

A. My understanding was to leave them as security for the payment of the $9,868.50.

Q. Then you felt he had no right to go and withdraw this contract from Mr. Spooner's possesion in going to Mr. Jewett to exercise that option? That would be your idea if they were left there for security for the payment of the $9,868.50?

A. It was contemplated that within 30 days these things would be fixed, but it hasn't been done.

Q. You say you felt he had no right to take the Jewett contract or any other of these other contracts from Mr. Spooner's possession?

A. I don't think he had any right. If he had come to me he would have got it.

102 Q. I am talking about what his right was. I don't see in any of these contracts mention made of the fact that you were to go and *and* exercise the right of option, if he didn't do it before the option expired.

A. No, sir.

Q. Was there any talk about that?

A. No, sir; nothing said about my going and exercising the option on his behalf, except as far as I told him or notified him that the option would expire.

Q. You never went to Jewett to get Jewett to make over to Mr. Sabin or to authorize him to make over to Mr. Sabin or to assign to him this option he had granted to you?

A. No, sir; I told Mr. Jewett of that contract.

Q. Told him what?

A. Told him that that pine-land contract had been sold to Mr. Sabin, and I afterwards went to Mr. Jewett to get a certified copy of that contract.

103 Q. These papers that you found in Mr. Phipp's office was after Mr. Langdon had prosecuted this assignment, was it not?

A. Yes, sir. The fact was that when the time to get our payment, as I supposed, was up Mr. Spooner couldn't find the papers. He

was very much put out about it himself, and I looked the office through and spent a good deal of time looking for them.

Q. You say in no event, according to your agreement, was Mr. Sabin to exercise that option under the Jewett contract?

A. No, sir; there was no agreement to that effect.

Q. But your agreement was that upon making a payment, whether it was the $3,000 note or the notes in the $9,868.50 payment; whenever the payment was made you were to vest in Mr. Sabin the same right to exercise that option that you had secured from Mr. Jewett?

104 A. I think so. He took all my right, title, and interest in it.

Q. You intended to put him in your place in exercising that option?

A. Yes, sir.

Q. So that he could go on and exercise that option in his own name?

A. Yes, sir.

Q. You say you had a conversation with Mr. Sabin and notified him that the time was about to expire in which that option could be exercised and he ought to do something about it, and I think you stated it was after the note was paid.

A. I should judge it was; I wouldn't say positively whether or not it was. It was I know the latter part of November, before the 1st of December.

Q. Did you give Mr. Sabin, or offer to give him, any order on Spooner for these contracts?

A. No, sir.

Q. You never instructed Spooner to turn them over to him?

A. No, sir; gave him no instructions.

105 Q. Was there any understanding between you and him there that you wanted to exercise that option if he did not?

A. No, sir.

Q. Any understanding that there was to be any abatement of this contract price in case the option was not exercised or was thrown up?

A. No.

Q. Was there any understanding that he was to pay you the further sum of $9,868.50 without regard to whether the option were kept alive or exercised or not?

A. No, sir; there was nothing said about that.

Q. Was there any understanding between you as to what part of the entire purchase price this option represented?

A. No, sir; it was simply a matter that was, as you might say, thrown in.

Q. At the time you made this agreement, in September, 1884, Mr. Sabin was closing up with you another deal with reference to

106 Nelson Lumber Company's stock, was he not?

A. Yes, sir; about that time.

Q. You were expecting or desiring to retire from your position as secretary of the lumber company at that time, were you not?

A. I was expecting to do so.

Q. And Mr. Sabin was taking off your hands all your stock in that concern, was he not?

A. He was to; yes, sir.

Q. In connection with that stock deal and this land deal he was to take the rest of your interest?

A. That didn't mix with the stock matter at all.

Q. Originally you had made a previous arrangement about the stock?

A. Yes, sir.

Q. At that time you were closing up the stock?

A. No, sir; it was sold some little time before that; it was sold in June.

Q. But he had an option on the stock and an option that expired in September, and he was closing up that stock deal at the
107 same time he consummated this other deal?

A. Yes, sir; about the same time, I think.

Q. And this transaction represented the closing deal whereby Mr. Sabin bought out your interest in the Nelson Lumber Company and these lands that are figured here, so that you were turning them into money in this way, supposing that it all went through, whatever property you had, with the expectation of going into some other business?

A. Well, just about that time. I don't remember. He was taking everything off my hands. There is no use to confound these two things, the stock deal and the land deal; they were two different transactions.

Q. There was no separate valuation put on the land deal?

A. These deals had nothing to do with one another. The land deal had nothing whatever to do with the stock deal.

108 Q. After you got rid of your stock there was nothing you wanted to get rid of except your pine lands?

A. I sold these lands to him after.

Q. It was all put in in a lump sum?

A. Yes, sir. There was no separation of the lands. The lands as far as we had deeds and contracts for it, it was a staple thing; it was something that represented money. The other represented an interest in the *minutes* of the lands, and the getting of it was secured. It was an option to take lands by paying $3.50 an acre.

Q. Were there any witnesses to your conversation between Mr. Sabin and yourself at Stillwater, when you say you called his attention to the fact that the option was about to expire on that Jewett contract?

A. Not that I know of.

Q. Do you remember having a conversation with him on the steps of the Gilfillan block?

109 A. On the steps of the Gilfillan block I remember having a conversation with him with regard to the Nelson Lumber Company stocks; that was on the steps of the Gilfillan block.

Q. Do you remember refusing to deliver these land contracts to Mr. Langdon at the time you had a meeting there in Mr. Spooner's office?

A. I remember refusing to give deeds, as I understood it, for all these lands.

Q. Have you been enquired of by Mr. Comstock as to whether or not you would consent to him surrendering these land contracts to Mr. Langdon?

A. No, sir.

Q. Has he had official communication with you to that effect?

A. No, sir.

Q. Or Mr. Baker?

A. No, sir.

Q. If he had would you have consented to it?

Objected to.

110 Q. Are you holding these contracts now, according to your understanding, by virtue of a right to retain them to prevent them from being delivered?

A. The papers are there in escrow.

Q. I am asking you now if you are claiming that the custodian of those papers is not privileged to turn them over to Mr. Langdon until they are paid for.

A. As I stated before, I have no objection to the man that holds it doing what the papers state.

Q. You don't answer my question. You don't state whether you claim that that custodian is not privileged to surrender these papers unless the $9,868.50 is paid.

A. I think he is entitled to take them under that letter to Mr. Spooner.

Q. Is that your agreement?

A. It is in that letter.

Q. Does that letter express your agreement?

111 A. According to the original agreement it does not.

Q. According to your agreement?

A. It does; part of it.

Q. According to the existing agreement?

A. I think he would be entitled to them.

Redirect examination by Mr. LUSK:

Q. The contract you made with Mr. Sabin is contained in that contract signed by him?

A. Yes, sir.

Q. Did you ever make any other contract with him?

A. No, sir; never made any other contract with him.

Q. And that contract provides that the contracts and the deeds for the land are to be taken as security for the $9,868.50?

A. Yes, sir.

Q. As I understand it, that does not hinder you from authorizing him to take one of these contracts if he had asked you for it?

A. No, sir; I could give it away if I chose.

112 Q. You could give away just as many rights under that contract as you saw fit?

A. Yes, sir.

Q. Did Mr. Sabin at any time before the first day of December ask you for any one of these contracts in order to perfect his title, or anything of that kind?

A. No, sir.

Q. Never came to you and asked you for the privilege of taking one of them?

A. No, sir.

Q. So that he could exercise his option?

A. No, sir.

Q. I would like to know what there was to hinder Mr. Sabin from exercising his right under that option contract with Mr. Jewett and leaving at the same time the contract in Mr. Spooner's office?

A. I don't know. I don't think there would be any trouble about it. He seemed to be able to get them for Mr. Phipps. Mr. Phipps had them in his safe.

Q. Supposing he didn't take them, what was there to hinder him from taking a certified copy of them and presenting that to
113 Mr. Jewett? Anything to hinder that?

A. No, sir.

Q. The fact is there was no attempt on the part of Mr. Sabin in the slightest particular to exercise his right of option under the Jewett contract?

A. No, sir. He told me he couldn't do it.

Q. You spoke of the Jewett contract being simply thrown in. What did you mean by that? Explain that fully.

—. I meant in my estimate of the value I didn't expect to fulfil that. There was a good deal of money in it; $3.50 an acre represented a good deal of money. It was simply an option. I didn't consider that of any very great value, unless a party that had money to go into it for the purpose of an investment or for trading purposes.

Q. The deeds represented the title?

A. Yes, sir.

Q. And the money paid on the contracts represented the consideration?

A. Yes, sir.

Q. This Jewett contract was thrown in with the others?

A. Yes, sir.

114 Q. Simply gave him the right to take these lands if he elected to do so before the first of December by paying for them?

A. Yes, sir.

Q. At the price stated in the contract?

A. Yes.

Q. After you sold to Mr. Sabin what interest was it to you whether he took that option or whether he did not? You had sold out that option to him?

A. Yes. I had no interest in it.

Q. In no way, shape, or manner?

A. No, sir.

Q. He could elect to take it or to drop it, as he wanted to?

A. Yes, sir.

Q. And you retained as your security these deeds and the other contracts that were paid for?

A. That was the principle.

Q. That was your security, really?

A. Yes, sir.

Q. And in order to make that security any better by exercising any right under this Jewett contract it would require the advance of a large sum of money?

A. Yes, sir.

115 Q. What did you tell Mr. Jewett about the sale to Mr. Sabin?

A. Nothing further than I had made a trade.

Q. That was before the first of December?

A. Yes.

Q. What did Mr. Jewett say?

Objected to.

Q. Did he make any objections to it in any way?

Objected to as hearsay.

A. No, sir.

Recross-examination by Mr. SEARLES:

Q. You say that after you made this contract with Mr. Sabin you didn't think you had any more interest in that option?

A. No, sir; I didn't think I had; I sold him that and got my pay for it; I didn't think I had any further interest.

Q. When did you get your pay?

A. I didn't get my pay particularly for that part of it, but I got $6,000.

116 Q. $6,000?

A. $3,000 cash and $3,000 in a note.

Q. Did that end your interest in those contracts?

A. I suppose it did; yes, that Jewett contract I wouldn't consider; it was thrown in any way. I was not going to go on with it, because it required more money than I had to spare.

Q. You said this contract was to be retained as security for the payment of $9,868.50 as well as the note?

A. The original contract?

A. I am speaking now about the original contract. There is not but one contract between you. If you made any subsequent contract the last one is your contract, according to your contract with Mr. Sabin as you finally perfected it. All these contracts, the Jewett contract and everything else, were to be held until the final $9,868.50 was paid upon it. Is that so?

A. I wouldn't have objected.

117 Q. Was it not your understanding that way, as you had the right to hold these papers under your agreement, as you claim?

A. Yes, sir.

Q. Then your interest in those papers had not terminated when that note was paid?

A. According to that paper it could have been held for security, if there was any security in it.

Q. According to your understanding I ask you whether your interest in these papers and your right to hold them had terminated when the note was paid.

A. I left that with the custodian.

Q. Then you are willing to say you don't know whether it did or not?

A. I am willing to say he could have had the papers if he wanted to at any time.

Q. You never separated that paper and told him that he could take that and separate it from the other papers?

A. No, sir; I never did, because he never asked me.

118 Q. You don't know how those papers got there to Phipps' office? You didn't see who took them there?

A. No, sir.

Q. Never had any words with Mr. Sabin about it?

A. No, sir; no, sir.

Q. He never told you he knew they were there or authorized them to go there?

A. No, sir.

Q. There was an interval of 10 or 12 days after the note was paid before the optional contract with Jewett expired and during that time there was time for you or Mr. Sabin or any one else to have taken that contract and handled it among the monied men and negotiated it for what money there was in that bargain, was there not?

A. I suppose so.

D. M. SABIN, recalled on the part of the plaintiff, testifies:

Examined by Mr. SEARLES:

119 Q. You have heard the testimony of Mr. Ranney about this conversation and the statement he had with you at Stillwater after this $3,000 note was paid and before the expiration of the Jewett contract or option. I wish you would state whether you ever had any such conversation with him.

A. I say I did not. It was simply impossible for him to come to me with that particular proposition of that kind—with all that particularity—at my office at Stillwater, and I not remember it.

Q. You don't recollect the conversation?

A. I have not the slightest recollection in the world of any such conversation. I don't think I saw Mr. Ranney at all, except on the steps of the Gilfillan block. I was not at home but a short time during the progress of Congress. We had some heated words with regard to the Nelson Lumber Company stock at that time.

120 He declined to deliver me some of that stock which was due me under that contract; he declined to deliver it, and Mr. Spooner said it was due.

Q. That conversation wholly related to that stock deal?

A. Yes, sir.

Q. You simply claimed he should deliver your stock?

A. Yes, sir.

Q. And he declined to do it?

A. Yes, sir.

Q. You are positive there was not anything said about this Jewett contract?

A. No, sir; not a word.

Q. I understood you to say you never kept a copy of the Jewett contract?

A. I never saw the Jewett contract until to-day.

Q. You didn't know what had to be done with reference to it?

A. No, sir; I didn't know anything about it; I left it with Mr. Ranney.

121 Q. Do you know anything about these papers having been delivered to Mr. Phipps down there or having been in his custody?

A. No, sir; I do not.

Q. Did you ever authorize anybody to turn them over to him?

A. No, sir.

Q. About this mortgage (Exhibit "L") being in blank, how about that?

A. I never heard of it until to-day.

Q. What was there about this deed having been made with the name of the grantee in blank? Did you request that to be done?

A. I don't know anything about the request. I simply asked Mr. Ranney if there would be any risk of conveyance in passing the title that way. He said that lots of those had been transferred that way; that thousands of acres had been transferred in that manner, and no question had been raised. I think he said that those deeds were from Mr. Pillsbury, some of them, and he was responsible for them.

122 Q. There was no authority given Mr. Spooner to fill in the name of the grantee?

A. No, sir; not to my knowledge.

Q. No authority given him, except this letter which both of you signed?

A. No, sir; not that I know of.

Q. Is there anything else that you wish to explain?

A. No, sir; I think not.

Q. That is all?

A. I think so; that is all I think of now.

Cross-examination by Mr. LUSK:

Q. Didn't Mr. Ranney tell you you could fill in the name of the grantee whenever you had a mind to?

A. He might have said so; I simply enquired with reference to the legality, whether it would be a legal conveyance.

Q. Didn't you know yourself that it is a very customary way of assigning certificates of land?

A. But these are warranty deeds.

123 Q. But certificates of land like these contracts?

A. No, sir; never knew of a transaction of the kind; never heard of it.

Q. You never took any before that way?

A. No, sir; not that I know of.

Q. You think he might have told you you could put in the name of the grantee whenever you saw fit?

A. He might have said so; I know *say* about that.

Q. He might have said so?

A. Yes, sir; I can't say about that. I was trusting the matter entirely to him, because he had had considerable experience in land and I took it for granted that he knew what he was talking about.

Q. Didn't you know that under the Jewett contract you had to elect at some time?

A. I did not; I knew I had a year in which to complete the transaction.

Q. You knew what the Jewett contract contained?

A. No, sir; I did not.

124 Q. Bought it without knowing what it was?

A. Yes, sir; I bought that list of land when he said there was no question but that they would hold out.

Q. You didn't know he had not paid up for the Jewett lands?

A. I presume that I did, as far as that is concerned.

Q. Then you must have known that you were simply taking an option on the Jewett lands?

A. I didn't know that the others were paid for.

Q. Didn't you know that the Minnesota Central railway lands were paid for?

A. I didn't know. I have no recollection of seeing the certificates until to-day.

Q. Didn't you understand you were taking these lands of the Minnesota Central Railway Company and the warranty deeds particularly free from paying anything?

A. I didn't know what the lands were.

Q. Didn't you know that there was a large body of the

125 lands you were to pay for—these Jewett lands you were to pay for?

A. I was settling with Mr. Ranney for the whole thing.

Q. Didn't you know that the Jewett lands were unpaid for and that all the other lands were paid for?

A. No, sir; I did not.

Q. Did you understand you were getting full warranty title to the Jewett lands?

A. I supposed he was to perfect title to all these lands; that was the understanding, and he was to do the work and perfect the title on these lands.

Q. Were you expecting he was to pay for these Jewett lands out of his own pocket?

A. I supposed he was to perfect the title.

Q. You understood that he was to give you title fully paid up for all the lands except the Jewett lands, did you not?

126 A. I expected he would give me title to those lands.

Q. You expected *to* was going to give you title to the Jewett lands and pay Jewett for them?

A. I expected to settle with him according to our arrangement whatever it was to pay on them. I expected him to do the work and carry out and perfect the title.

Q. You expected if he paid for the Jewett lands that you would have to pay him that much more?

A. Yes, sir; I think so.

Q. About the first day of December you were not in shape to pay any large amount of money?

A. No, sir; nor at any other time — what you call good shape.

Q. Didn't you personally sell these lands to Mr. Porter?

A. Yes, sir.

Q. How soon after the contract of September 15th?

—. I think that trade—I tried to sell them to him some

127 time before the contract was made.

Q. In view of the contract?

A. In view of the general statement of Mr. Ranney—the statement that he had lands up there and he could deliver.

Q. Did you try to sell these lands to Mr. Porter after this contract was made?

A. I don't think I did. I had conversations with him after that time. Previous to all this I had made trades with Mr. Porter for lands up in that country.

Q. Including these?

A. I made no descriptions whatever to Mr. Porter. It was simply a general sale of so many million feet of pine—33 million feet of pine, I think it was.

Q. The fact was that you wouldn't have exercised on the first of December that option. You were not in shape to have exercised that option on that day under the Jewett contract if a man had offered it to you?

128 A. I would have found a man that would have exercised that option. There would be no trouble about that on 44,000,000 feet of pine situated as this is.

Q. But you were aware that under the Jewett contract you had to elect on a certain day to do it?

A. I was not.

Q. Simply because you never read the contract?

A. I never saw it at all.

Q. You have heard the testimony of Mr. Ranney in regard to the conversation he had in your office; not the formal conversation you speak of, but a conversation in your office in Stillwater about *about* the time that you were to make the election being about to expire under the Jewett contract. Might not he have spoken of that in your office and you not remember it?

A. No, sir; it is simply impossible for me to have had my mind

drawn to a transaction of such a magnitude as that and I not
129 remember it. I don't think I ever saw Mr. Ranney in my office except in November.

Redirect examination by Mr. SEARLES:

Q. You could have handled that option within the 10 or 12 days intervening from the period of the payment of that note before it expired?

A. Very easily.

Q. Your business was such that if you had not the money yourself you could have got it?

A. Yes, sir.

Q. And saved everything that was in it?

A. Yes.

Q. Mr. Lusk, do you know whether there was anything to save in it at $3.50 an acre?

A. I know there is 50 cents a thousand. I know it cost about 50 cents a thousand, and Mr. Ranney computed — was worth $1.00 to $1.50 for each of them.

The further taking of testimony is now adjourned until 10 a. m. the next day.

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Parties being present, by their respective attorneys, the further taking of testimony is proceeded with pursuant to adjournment.

W. P. JEWETT, sworn on behalf of the plaintiff, testifies:

Examined by Mr. SEARLES:

Q. (Exhibit "C" shown witness.) I call your attention to this Exhibit "C" and enquire if this is the contract or if you are the person that made this contract with the defendant Ranney.

A. I am.

Q. Can you state, and, if so, please state, how many of the lands described in that contract could have been secured by Mr.
131 Ranney if he had exercised the option that is given him by that contract.

Witness checks off certain descriptions of land, and marks the same on Exhibit "C" with blue pencil.

A. My answer to that would be that had Mr. Ranney declared his intention to purchase the lands under this agreement prior to the date named, the first of December, 1884, that I was prepared to furnish him title in accordance with the terms of the agreement within 90 days after the first of December, 1884, for all of the lands in the contract which I have designated with the blue check mark. The entire list, I believe, without the exception of a description was patented to the State through my efforts in the De-

partment at Washington, and with reference to the balance of the list it is simply a question. The balance that I have not checked it is a question as to which of two parties of two grantees of
132 the State is entitled to them. Mr. Ranney not having declared his intention to accept the terms of the contract, I did not press the question to a determination as to which of the two grantees was entitled to this part of the list, which I should have done at once had he desired me to obtain the lands. I am not prepared to admit, however, that I could not have obtained title to all of them. It stands in the same condition at the present time.

Q. Undetermined?

A. Undetermined. I got the title from the United States into the State of Minnesota, and I just simply left the matter in abeyance, not desiring to make any disposition of the lands. It was more to my interest to leave the lands as they were than to take the title and have interest running on it.

Q. You may state what conflict there is between the claim-
133 ants and the State as to the lands not checked.

A. The lands not checked, I believe, all lie within, say, the 10-mile limits of the Duluth and Iron Range railroad, which claims the lands under the act of the legislature of the State of Minnesota, which, I believe, however, has a proviso that the company shall be entitled to receive no lands which any prior grantee (I am not quoting the precise language) was entitled to take, and when we claimed that this company owned it I expected to receive these lands, claiming them under the act of 1865 that it was a prior claim to them over that claim of the Duluth & Iron Range Company.

Q. That is, the Minneapolis & St. Cloud road?

A. Yes, sir; the Minneapolis & St. Cloud.

Q. That was the question?

A. Yes, sir; the question between the companies as to priority of right as between the Duluth & Iron Range Company and
134 several other of the grantees. These claims were argued, I believe, before the governor, the attorney general, and the auditor of State some time ago—I don't remember the precise date, but a year or two ago—with a view of securing from the attorney general an opinion as to the respective rights of the companies. He took the matter under advisement and has never filed an opinion, and it therefore stands undetermined at the present time.

Q. Are these pine lands?

A. That is the understanding, yes, that they were all selected for the pine timber.

Q. These pencil memoranda—neither of them are in your handwriting?

A. No, sir.

Q. And no part of the contract?

A. They are no part of the contract.

Cross-examination by Mr. LUSK:

135 Q. Mr. Sabin didn't come to you and try to make an election under that contract as the assignee of Mr. Ranney prior to the first of December?

A. No, sir.

Q. Has he at any time tried to get you to let him have the lands under that contract or that option?

All this testimony is taken under objection.

A. No, sir.

Q. Has he ever asked you to do so?

A. No, sir.

Q. Have you refused up to this time to allow Mr. Ranney or his assignee, Mr. Sabin, to elect under that contract?

A. No, sir; because the question has not been presented. The option expired and the matter was dropped.

Q. Nothing more was said about it?

A. Nothing more was said about it.

Q. One way or the other?

A. No, sir; nothing that I have any recollection of now.

136 Q. Prior to the first of December—if Mr. Sabin as assignee or Mr. Ranney had on the first of December, 1884, made an election there would have been no objection to it, would there?

A. No, sir; prior to the expiration of the contract or option. No, sir; there would have been no objection on my part.

Q. In other words, you didn't consider that contract simply limited it to you and Mr. Ranney, and that it could not be assigned—nothing like that?

A. My only object was to turn the lands over and get the money out of them. It was immaterial to me who paid for them, in the same manner as I did other lands for Mr. Ranney.

Q. I will ask you if you would be willing now to allow Mr. Sabin to take these lands under the terms and conditions in that contract; or, if not, at what difference?

The same objection to this testimony.

137 Q. Whether or not you would charge him any more than the amount stated in the contract, except interest from December first, 1884, the time when you would have received that money when it would be paid in.

Mr. SEARLES: You make the witness your own in this matter?

Mr. LUSK: Yes.

A. With reference to the lands I have checked in blue, to which I can make titles at any time now, I would be now perfectly willing to carry out the terms of the agreement by adding interest at, say, 7 per cent. from 90 days after the first of December, 1884. I could have made deeds for these lands by the first of March, 1885, because I could have secured a patent in January through the department in Washington, and I could have closed the matter up in that manner by the first of March in the ordinary course of business.

138 Q. There was no money paid down to you on that contract?

A. No, sir.

Q. The whole consideration of the contract was to have been paid by whomsoever made the election to take the lands?

A. There was no part of the consideration paid other than simply it designated one dollar for the consideration of the agreement. The contract or agreement was made as a supplemental one to others of a like character made in the same manner with Mr. Ranney, in which I fulfilled in part and took his deeds. This list of lands the title not being perfected, I asked him to make a definite agreement for a certain fixed time so that he could arrange with any purchaser he might find for the property and know that
139 he would be able to carry out the deal through me, so I gave him this limit of period until the first of December to enable him to close up his deals. Whatever the costs of the minutes in case of default in the contract it was understood all passed to me.

Redirect examination by Mr. SEARLES:

Q. And the lands expressed in this contract or the contract itself was in the nature of a companion to some other contracts of the same character?

A. Yes, sir; not quite so fully expressed as this, however.

Q. Your deal with him included lands which you were able to convey and lands which you are not able to convey?

A. Not at this time; with him the agreement was made at the time that I was not able to make him deeds because the patents had not been issued for them.

140 Q. Your entire deal included the list of lands you were able to deed to him at that time and those lands which you expected to be able to deed to him?

A. Yes, sir.

Q. There was no separate consideration for that contract?

A. No, sir.

Q. Now, has Mr. Ranney ever been to you to keep alive this option later than the date of the expiration of the contract?

A. Not that I am aware of.

Q. Would you be able to deed all the lands mentioned in that contract, either at the price mentioned in it or at that price you mentioned, with interest from 90 days after the expiration of this option on those lands that you could convey at that time and interest on the other lands as you become able to convey them?

A. With reference to the lands that lie in this conflicting limit, I don't know that I am prepared to say I should want to class those at the same figure now, because the contract throws upon me
141 the burden of securing the title, and in view of the conflict there would be considerable expense connected with securing these titles more than was anticipated at the time the contract was made. A few of the descriptions may be valuable for minerals,

which was not contemplated at the time of the agreement. The price was then made simply by selecting them for their value as pine timber, and I am sure I would have greater difficulty in securing my title or closing it in connection with the conflict than I would have had if it was not for the possible mineral value. With the exception of a description in town. 61, 15, what I would call five forties, if I could secure my title without much expense, I would be satisfied to carry out the original intention with adding interest on the same basis as those I have checked in blue; but that one town—
142 I should feel as though I should hardly want to put in these five forties, because if I did get title it is going to cost me considerable money.

Q. You have never notified Mr. Ranney, Mr. Sabin, or Mr. Langdon that you would keep that option alive?

A. No, sir.

Q. Since the first of December, 1884?

A. No, sir.

Recross-examination by Mr. LUSK:

Q. Have you ever notified either of thoese gentlemen—Mr. Sabin, Mr. Ranney, or Mr. Langdon—that you elected on your part to consider that contract at an end in connection with the terms of it?

A. I don't remember that I have at any time.

Q. The fact is there has been nothing said about it.

A. There has been nothing said about it, and the contract was of such a character that unless Mr. Ranney notified me in writing that he elected to take the option it fell of its own weight
143 and there was the end of it. I had a conversation with Mr. Ranney before the time of expiration, in which it was clearly understood between us that if he expected to hold the lands he must elect to take them before the time ran out, otherwise he forfeited all his rights and interest under it. He had put some money into it, and he understood that if he failed to elect he lost all his interest in it.

Q. That was in the contract?

A. Yes, sir.

Q. It was according to the terms of the contract?

A. Yes, sir.

Q. It was an option to elect to take these lands or not?

A. Yes, sir.

Q. That he could take it or drop it?

A. Yes, sir; and if he dropped it, then all that interest passed to me without any claim on me.

Q. They had no money in it in fact?

144 A. None whatever.

Q. You stated to Mr. Searles that this contract was a companion to another contract. Has this contract anything to do with any other contract you made with Mr. Ranney?

A. Well, really not.

Q. Enter into any other contract?

A. No, sir.

Q. This contract stands just as much alone and by itself, as far as its terms and conditions are concerned, as though you had never had any other transactions with him?

A. Yes, sir; with regard to the deeds. He simply formed lists with me of a considerable quantity of land.

Q. That is all I care about. Speaking about your willingness yet to allow Mr. Sabin or Mr. Langdon or whoever may be interested in this contract the right to go ahead and comply with the contract, do you recollect the provision of the contract that you are not to give deeds to any except as you get title to it?

145 There is that provision there, and that being so, why do you need to make any reservation about it at all? You are not bound to give deeds to any until you get title.

A. Yes, sir; that is true.

Q. Then why can't you state that if they will contract to buy that land and take it under that contract and will pay interest from 30 days after December first, 1884, that you will let them have the lands in accordance with the contract?

A. The only objection to that is with reference to these five descriptions.

Q. But you are not bound to give any title until you get title to it yourself?

A. No; but my understanding would be that with reference to these lands in conflict if I got one tract I could get them all. The title is in the State of Minnesota under patent for the entire list. If I am entitled to any I am entitled to all the tracts in the lands in conflict.

146 Q. Well, if you can get them.

A. I would be perfectly willing to close that deal on all of them except these five descriptions; but if I renew the contract as a whole it would take these five descriptions.

Q. Provided you get title.

A. That is true.

Q. It wouldn't bind you unless you got title?

Mr. SEARLES: The first page says: "Such lands as the party of the first part may at any time be able to secure title to." That casts upon him *to* burden to make efforts to get title if he can.

Further examination by Mr. SEARLES:

Q. Do you know how much timber stands upon those lands?

A. Not exactly.

Defendant objects to any question as to the amount of timber upon these lands or as to the value of them, in whole or in

147 part, or to the value of any timber that is on the lands or was on the lands at any time as immaterial and incompetent under the pleadings.

Q. If you don't know, that is all.

A. I can answer that very nearly.

Q. Is it from your examination of the lands? Have you ever seen them?

Q. From the information that Mr. Ranney gave me. Perhaps I ought to qualify that a little by saying that I had 5 or 6 40's examined, but as to the balance, of my own knowledge or through my own efforts, I don't know anything at all.

Q. Some of those lands lie over an area of what is known as "iron lands." Have they appreciated in value in consequence?

A. There are five descriptions there of lands in town. 61, 15, that lie in the general range of what is called this mineral belt. I have no positive information as to their being of any value for
148 minerals, but their general location is the only point that would govern me in expressing an opinion on them.

Q. Then you don't know really whether they have appreciated in value by reason of their supposed locality?

A. There are five 40's there to my certain knowledge.

By consent of parties, the reading and signature of the witnesses to this testimony is waived.

149 Circuit Court of the United States, District of Minnesota.

R. B. LANGDON, Pl'ff,
v.
PHILIP M. RANNEY, Def't.

It is hereby stipulated by the parties to the above-entitled cause that the testimony therein be taken orally by and before Oscar B. Hillis, notary public, Ramsey county, Minnesota, at his office, in the city of St. Paul; that the taking of the testimony of complainant be commenced before said Oscar B. Hillis on the 2nd day of May, 1887, at 11 o'clock a. m., and that the taking of said testimony be continued from day to day until completed; that the testimony of defendant shall be taken before said Oscar B. Hillis within twenty days after the taking of the testimony of the complainant is completed,
150 and the defendant shall give the complainant at least five days' notice of the time of taking his testimony unless otherwise stipulated.

And it is further stipulated by said parties that all the papers belonging to said parties and pertaining to the transactions between said parties, referred to in the pleadings in said cause, now in the hands of John Comstock, of Hudson, Wisconsin, be by said Comstock securely inclosed in a package and sealed, and be by said Comstock transmitted by express to said Oscar B. Hillis, clerk of U. S. circuit court, and that as said clerk he shall hold said papers upon the same condition that they were held by said Comstock.

Dated April 28th, 1887.

SEARLES, EWING & GAIL,
Att'y- for Plaintiff.
BAKER AND SMITH,
Att'ys for Defendant.

151 (PLAINTIFF'S EXHIBIT) "A."

President's office, Northwestern M'f'g & Car Co., D. M. Sabin, president.

STILLWATER, MINN., *Sept.* 16, 1884.

John C. Spooner, Esq.

DEAR SIR: I have sold Mr. Sabin my interest in the enclosed land contracts, which I have assigned in blank. I enclose them in an envelope marked "Land contracts." The balance due me on them is $3,000.00, for which I have his note at 60 days, with interest at 8% from date until paid. We have agreed to leave them in your hands as security for the payment of said note and interest, and if he does not pay the note at maturity you are to return them to me.

I also enclose 3 deeds for about 16 43 acres on which there is a balance due me. This is in an envelope marked "Warranty deed." This is not to be delivered to Mr. Sabin until we make a final settlement and you get written notice from me to deliver to him, said arrangement to be made within a month from date.

Yours, &c., P. M. RANNEY.

O. K.

D. M. SABIN.

152 PLAINTIFF'S EXHIBIT "B."

S. M. Ranneys.

Return, if not called for in 10 days, to N. W. M'f'g & Car Company, manufacturers of Minnesota Chief threshers, lumber, wooden ware, doors, sash, and blinds, Stillwater, Minnesota.

"Land contracts."

To be del'd Sabin on payment of $3,000 note and int., 60 d's from Sept. 16th, '84.

153 (PLAINTIFF'S EXHIBIT C.)

This agreement made and entered into this 28th day of May A. D. 1884 by and between W. A. Jewett of St. Paul, county of Ramsey and State of Minnesota, party of the first part, and P. M. Ranney of St. Paul, Ramsey county, State of Minnesota, party of the second part, witnesseth:

That for and in consideration of the sum of one dollar to him in hand paid by said party of the second part, the receipt of which is hereby acknowledged, the said party of the first part hereby agrees to sell and convey to said party of the second part, by good and sufficient warranty deeds, upon the further payment of the sum of three dollars and fifty cents ($3.50) per acre upon the terms and conditions hereinafter stated, such of the lands described in the list hereto attached as the said party of the first part may be able at any time to secure title to under the agreement heretofore made by and between the said party of the first part and J. S. Pillsbury of Minneapolis, Minn. all of said lands having been applied for to the Minneapolis and St. Cloud R. R. Co., and duly filed for by said R. R. Co. in the State land office of Minnesota, as and for a part of the lands running to said company under its grant, provided however that said party

of the second part shall on or before the 1st day of December A. D. 1884 file with said party of the first part a notice in writing declaring his intention to purchase lands under the terms of this agreement.

In case said party of the second part shall have determined to purchase lands by filing the notice of such intention within the time above limited, then and in that event said party of the first part further agrees to prepare and present to said party of the
154 second part within thirty days (30) from and after said 1st day of December 1884. Warranty deeds conveying to said party of the second part all of the lands described to which he may have secured title prior to said 1st day of December 1884, and to deliver the same upon receiving payment therefor at the price hereinbefore stated and for the remaining lands to furnish deeds in like manner from time to time, and within a reasonable time after said first party shall have received title to the same.

The said party of the second part agrees to notify the party of the first part on or before the first day of December 1884, of his intention to accept or decline the foregoing option to purchase the lands described and in case of the acceptance of said privilege to purchase, to pay upon delivery of deeds therefor the sum of three dollars and fifty cents ($3.50) per acre for all of the lands included in this agreement to which said party of the first part may from time to time furnish deeds.

It is further agreed between the parties hereto that if the party of the second part shall fail to notify the party of the first part of his acceptance of the privilege to purchase within the time limited, then, and in that event, this contract or agreement shall be null and void and all the rights or in-erest which said second party may have acquired in or to any of the lands described shall cease and determine.

It being the intention of the parties hereto that said party of the second part shall have until December 1st, 1884, the privilege or option to purchase or to decline to purchase the lands described and that in case he shall decline to purchase, the said party
155 of the first part hereby releases him from all obligations under this agreement.

It is further understood and agreed that said first party shall use his best endeavors to secure title to the lands herein referred to in the manner hereinbefore mentioned but that his obligation so to do shall not extend beyond the ability of the said railroad company to secure title to the same.

Witness our hands and seals the day and year first above written.

W. P. JEWETT. [SEAL.]
P. M. RANNEY. [SEAL.]

In presence of—
C. E. WHITE.
JOHN NARGENTHEN.

STILLWATER, *Sept.* 16, 1884.

For value received I hereby sell and convey all my right, title, or interest in the above contract. P. M. RANNEY. [SEAL.]

In presence of—
——— ———.

		S.	T.	R.	Acres.	
156	Lot 8	10	59	6 W.	36.00	275
	N e ¼ of n e ¼	4	59	14	39.71	250
	W ½ of n e ¼	9	60	14	80	450
	N ½ of s w ¼	32	60	14	80	
	S w ¼ of s e ¼	32	60	14	40	900
	S w ¼ s w ¼	3	60	15	40	250
	S w ¼ & s w ¼ & s e ¼	9	60	15	200	2,000
	N e ¼ s e ¼	6	60	15	40	275
	N e ¼ n w ¼	10	60	15	40	200
	N e ¼ n w ¼	14	60	15	40	250
	N e ¼ s e ¼ & s w ¼ & s e ¼	26	60	15	80	400
	Lots 1 & 2 & s w ¼ & n e ¼	5	61	15	119.29	750
	Lots 1 & 2	6	61	15	74.39	550
	S w ¼ & s w ¼ or lot 4	6	60	16	48.80	300
	N ½ s e ¼	12	60	16	80	525
	S e ¼ & s e ¼	18	60	16	40	250
	S e ¼ & s w ¼ & s ½ s e ¼	19	60	16	120	900
	E ½ s e ¼	22	60	16	80	900
	N ½ n e ¼, s w ¼ & n e ¼, & n w ¼ & s e ¼	24	60	16	160	1,325
	S ½ of n w ¼	29	60	16	80	550
	N ½ s w ¼ & s e ¼ & s w ¼ & lots 3 & 4	1	60	17	179.15	1,250
	N ½ s e ¼	2	60	17	80	800
	N ½ n e ¼	12	60	17	80	650
157	N ½ s e ¼	13	60	17	80	600
	N e ¼ n e ¼	19	60	17	40	400
	N w ¼ n w ¼	20	60	17	40	400
	S ½ n e ¼	32	58	18	80	450
	N w ¼ s w ¼	22	60	18	40	250
	W ½ n e ¼	32	60	18	80	500
	N w ¼ n w ¼ & n w ¼ s w ¼	14	63	19	80	525
	S e ¼ & n e ¼	22	63	19	40	200
	S e ¼ n e ¼ & s w ¼ & n w ¼	23	63	19	80	500
	W ½ n e ¼	24	64	20	80	800
	N e ¼ & n w ¼	25	64	20	40	200
	N w ¼ & n e ¼ & n w ¼ & s e ¼	26	64	20	80	450
	N w ¼ s w ¼	4	66	20	40	300
	N e ¼ n e ¼	15	66	20	40	300
	Lots 1, 2, 3, & 6	2	64	21	168.50	1,000
	Lot 4 & s e ¼ n e ¼	12	64	21	76.75	525
	Lot 1, S w ¼ n e ¼ & E ½ n w ¼ & n e ¼ s w ¼	34	65	21	226.99	1,575
	N e ¼ & n e ¼ & n w ¼	34	63	23	200	1,850
	Total No. of acres				3,369.58	24,825

158 "PLAINTIFF'S EXHIBIT" D 1.

Minnesota Central Railroad Co., land department.

No. 80.

Contract to Sell Forty Acres of Land, with Privilege of Selection.

In consideration of two hundred dollars, L. S., to it in hand paid, the land department of the Minnesota Central Railroad Company hereby agrees upon the return of this contract, with a written description of the land selected endorsed hereon, to sell to P. M. Ranney or his heirs or assigns any Government subdivision of land which he may select, containing not more than forty acres, which said Minnesota Central Railroad Company is, or may hereafter be, entitled to have deeded to it by the State of Minnesota under the provisions of chapter sixty-seven (67) of the Special Laws of Minnesota for the year 1865 and acts amendatory thereof, and upon the return of this contract, with said endorsement, said land department agrees to issue to the person entitled thereto in lieu of this contract an agreement to take all necessary steps to secure the title of said land from the State, and as soon as said title is obtained to cause said title to be conveyed by said company to the person who will be entitled to the same under the terms of said contract.

Provided that the land so selected shall not be lands previously selected by the company or by some other person holding a similar contract to this from the company.

It is expressly agreed that the issuing of this contract shall not prevent the said company from selecting the land it is or shall be entitled to under said chapter sixty-seven (67), Special Laws of 1865.

Provided it shall always leave in the State of Minnesota sufficient land to satisfy this contract and all others it may have
159 outstanding of a like character.

In witness whereof the said land department has caused these presents to be signed by its land commissioner and countersigned by the secretary of the land department, at St. Paul, Minnesota, this 5th day of June, 1883.

H. B. CLEMENT,
Land Commissioner.

Countersigned:
SAM'L LEAVITT, *Secretary.*

(Endorsed.)

For value received, I hereby sell and assign the within contract to —— ——, his heirs and assigns.

—— ——. [L. S.]

In presence of—
—— ——.

To the land department of the Minnesota Central Railroad Company:

You will please take notice that I have selected the N. E. ¼ of N. E. ¼ of section 17, town. 59, range 6 W., under the within contract, and desire that you should issue to me the contract for that specific description, as provided in the within contract, and for that purpose I hereby surrender this contract.

Dated —— —, 188–.

L. M. RANNEY.

In presence of—

—— ——.

160 Received and filed in office of land department of Minnesota Central Railroad Company on this — day ——, 188–, at — o'clock — m.

—— ——, *Secretary.*

161 "PLAINTIFF'S EXHIBIT" D 2.

Minnesota Central Railroad Co., land department.

No. 82.

Contract to Sell Forty Acres of Land, with Privilege of Selection.

In consideration of two hundred dollars, L. S., to it in hand paid, the land department of the Minnesota Central Railroad Company hereby agrees, upon return of this contract with a written description of the land selected endorsed hereon, to sell to P. M. Ranney or his heirs and assigns any Government subdivision of land which he may select, containing not more than forty acres, which said Minnesota Central Railroad Company is, or may hereafter be, entitled to have deeded to it by the State of Minnesota under the provisions of chapter sixty-seven (67) of the Special Laws of Minnesota for the year 1865 and acts amendatory thereof, and upon the return of this contract, with said endorsement, said land department agrees to issue to the person entitled thereto, in lieu of this contract, an agreement to take all necessary steps to secure the title of said land from the State, and as soon as said title is obtained, to cause said title to be conveyed by said company to the person who will be entitled to the same under the terms of said contract.

Provided that the land so selected shall not be lands previously selected by the company or by some other person holding a similar contract to this from the company.

It is expressly agreed that the issuing of this contract shall not prevent the said company from selecting the land it is or shall be entitled to under said chapter sixty-seven (67), Special Laws of 1865.

Provided it shall always leave in the State of Minnesota sufficient land to satisfy this contract and all others it may have
162 outstanding of a like character.

In witness whereof the said land department has caused

these presents to be signed by its land commissioner and countersigned by the secretary of the land department, at St. Paul, Minnesota, this 5th day of June, 1883.

H. B. CLEMENT,
Land Commissioner.

Countersigned:
SAM'L LEAVITT, *Secretary.*

(Endorsed.)

For value received, I hereby sell and assign the within contract to —— ——, his heirs and assigns.

—— ——. [L. S.]

In presence of—
—— ——.

To the land department of the Minnesota Central Railroad Company:

You will please take notice that I have selected the N. W. ¼ of N. E. ¼ of section 17, town. 59, range 6 W., under the within contract, and desire that you should issue to me the contract for that specific description, as provided in the within contract, and for that purpose I hereby surrender this contract.

Dated —— —, 188–.

L. M. RANNEY.

In presence of—
—— ——.

163 Received and filed in office of land department of Minnesota Central Railroad Company on this — day of ——, 188–, at — o'clock — m.

—— ——, *Secretary.*

164 "PLAINTIFF'S EXHIBIT" D 3.

Minnesota Central Railroad Co., land department.

No. 83.

Contract to Sell Forty Acres of Land, with Privilege of Selection.

In consideration of two hundred dollars, L. S., to it in hand paid, the land department of the Minnesota Central Railroad Company hereby agrees, upon return of this contract with a written description of the land selected endorsed hereon, to sell to P. M. Ranney or his heirs or assigns any Government subdivision of land which he may select, containing not more than forty acres, which said Minnesota Central Railroad Company is or may hereafter be entitled to have deeded to it by the State of Minnesota under the provisions of chapter sixty-seven (67) of the Special Laws of Minnesota for the year 1865 and acts amendatory thereof, and upon the return of this contract with said endorsement said land department agrees to issue

to the person entitled thereto in lieu of this contract an agreement to take all necessary steps to secure the title of said land from the State, and as soon as said title is obtained to cause said title to be conveyed by said company to the person who will be entitled to the same under the terms of said contract.

Provided that the land so selected shall not be lands previously selected by the company or by some other person holding a similar contract to this from the company.

It is expressly agreed that the issuing of this contract shall not prevent the said company from selecting the land it is or shall be entitled to under said chapter sixty-seven (67), Special Laws of 1865.

Provided it shall always leave in the State of Minnesota sufficient land to satisfy this contract and all others it may have out-
165 standing of a like character.

In witness whereof the said land department has caused these presents to be signed by its land commissioner and countersigned by the secretary of the land department, at St. Paul, Minnesota, this 5th day of June, 1883.

H. B. CLEMENT,
Land Commissioner.

Countersigned:
SAM'L LEAVITT, *Secretary.*

(Endorsed.)

For value received, I hereby sell and assign the within contract to —— ——, his heirs and assigns.

—— ——. [L. S.]

In presence of—
—— ——.

To the land department of the Minnesota Central Railroad Company:

You will please take notice that I have selected the S. W. ¼ of S. W. ¼ of section 33, town. 59, range 6 W., under the within contract, and desire that you should issue to me the contract for that specific description, as provided in the within contract, and for that purpose I hereby surrender this contract.

Dated —— —, 188–.

L. M. RANNEY.

In presence of—
—— ——.

166 Received and filed in office of land department of Minnesota Central Railroad Company on this — day of ——, 188–, at — o'clock — m.

—— ——, *Secretary.*

167 "PLAINTIFF'S EXHIBIT" D 4.

Minnesota Central Railroad Co., land department.

No. 84.

Contract to Sell Forty Acres of Land, with Privilege of Selection.

In consideration of two hundred dollars, L. S., to it in hand paid, the land department of the Minnesota Central Railroad Company hereby agrees, upon return of this contract, with a written description of the land selected endorsed hereon, to sell to P. M. Ranney or his heirs or assigns any Government subdivision of land which he may select, containing not more than forty acres, which said Minnesota Central Railroad Company is or may hereafter be entitled to have deeded to it by the State of Minnesota under the provisions of chapter sixty-seven (67) of the Special Laws of Minnesota for the year 1865 and acts amendatory thereof, and upon the return of this contract with said endorsement said land department agrees to issue to the person entitled thereto, in lieu of this contract, an agreement to take all necessary steps to secure the title of said land from the State, and as soon as said title is obtained to cause said title to be conveyed by said company to the person who will be entitled to the same under the terms of said contract.

Provided that the land so selected shall not be lands previously selected by the company or by some other person holding a similar contract to this from the company.

It is expressly agreed that the issuing of this contract shall not prevent the said company from selecting the land it is or shall be entitled to under said chapter sixty-seven (67), Special Laws of 1865.

168 Provided it shall always leave in the State of Minnesota sufficient land to satisfy this contract and all others it may have outstanding of a like character.

In witness whereof the said land department has caused these presents to be signed by its land commissioner and countersigned by the secretary of the land department, at St. Paul, Minnesota, this 5th day of June, 1883.

H. B. CLEMENT,
Land Commissioner.

Countersigned :
SAM'L LEAVITT, *Secretary.*

(Endorsed.)

For value received, I hereby sell and assign the within contract to —— ——, his heirs and assigns.

—— ——. [L. S.]

In presence of—

—— ——.

To the land department of the Minnesota Central Railroad Company :

You will please take notice that I have selected the lots 2 & 3 of section 15, town. 59, range 6 W., under the within contract, and desire that you should issue to me the contract for that specific description, as provided in the within contract, and for that purpose I hereby surrender this contract.

Dated ——— —, 188–.

L. M. RANNEY.

In presence of—

——— ———.

169 Received and filed in office of land department of Minnesota Central Railroad company on this — day of ——, 188–, at — o'clock — m.

——— ———, *Secretary.*

170 "PLAINTIFF'S EXHIBIT D 5."

Minnesota Central Railroad Co., land department.

No. 85.

Contract to Sell Forty Acres of Land, with Privilege of Selection.

In consideration of two hundred dollars, L. S., to it in hand paid, the land department of the Minnesota Central Railroad Company hereby agrees, upon the return of this contract with a written description of the land selected endorsed hereon, to sell to P. M. Ranney, or his heirs or assigns, any Government subdivision of land which he may select, containing not more than forty acres, which said Minnesota Central Railroad Company is, or may hereafter be entitled to have deeded to it by the State of Minnesota under the provisions of chapter sixty-seven (67) of the Special Laws of Minnesota for the year 1865, and acts amendatory thereof and upon the return of this contract with said endorsement, said land department agrees to issue to the person entitled thereto, in lieu of this contract, an agreement to take all necessary steps to secure the title of said land from the State, and as soon as said title is obtained, to cause said title to be conveyed by said company to the person who will be entitled to the same under the terms of said contract;

Provided, that the land so selected shall not be lands previously selected by the company, or by some other person holding a similar contract to this from the company.

It is expressly agreed that the issuing of this contract shall not prevent the said company from selecting the land it is, or shall be entitled to under said chapter sixty-seven (67), Special Laws of 1865;

171 Provided it shall always leave in the State of Minnesota sufficient land to satisfy this contract, and all others it may have outstanding of a like character.

In witness whereof, the said land department has caused these

presents to be signed by its land commissioner and countersigned by the secretary of the land department at St. Paul, Minnesota, this 5th day of June, 1883.

H. B. CLEMENT,
Land Commissioner.

Countersigned:
SAM'L LEAVITT, *Secretary.*

(Endorsed.)

For value received I hereby sell and assign the within contract to —— ——, his heirs and assigns.

—— ——. [L. S.]

In presence of—
—— ——.

To the land department of the Minnesota Central Railroad Company:

You will please take notice that I have selected the S. W. ¼ of N. W. ¼ of section 15, town. 59, range 6 W., under the within contract and desire that you should issue to me the contract for that specific description, as provided in the within contract, and for that purpose I hereby surrender this contract.

Dated —— —, 188–.

L. M. RANNEY.

In presence of—
—— ——.

172 Received and filed in office of land department of Minnesota Central Railroad Company on this — day of ——, 188–, at — o'clock — m.

—— ——, *Secretary.*

173 "PLAINTIFF'S EXHIBIT" D 6.

Minnesota Central Railroad Co., land department.

No. 86.

Contract to Sell Forty Acres of Land, with Privilege of Selection.

In consideration of two hundred dollars, L. S., to it in hand paid, the land department of the Minnesota Central Railroad Company hereby agrees, upon return of this contract with a written description of the land selected endorsed hereon, to sell to P. M. Ranney or his heirs or assigns any Government subdivision of land which he may select, containing not more than forty acres, which said Minnesota Central Railroad Company is or may hereafter be entitled to have deeded to it by the State of Minnesota under the provisions of chapter sixty-seven (67) of the Special Laws of Minnesota for the year 1865 and acts amendatory thereof, and upon the return of this contract, with said endorsement, said land department agrees to issue to the person entitled thereto in lieu of this contract an agree-

ment to take all necessary steps to secure the title of said land from the State, and as soon as said title is obtained to cause said title to be conveyed by said company to the person who will be entitled to the same under the terms of said contract:

Provided that the land so selected shall not be lands previously selected by the company or by some other person holding a similar contract to this from the company.

It is expressly agreed that the issuing of this contract shall not prevent the said company from selecting the land it is or shall be entitled to under said chapter sixty-seven (67), Special Laws of 1865:

174 Provided it shall always leave in the State of Minnesota sufficient land to satisfy this contract and all others it may have outstanding of a like character.

In witness whereof the said land department has caused these presents to be signed by its land commissioner and countersigned by the secretary of the land department, at St. Paul, Minnesota, this 5th day of June, 1883.

H. B. CLEMENT,
Land Commissioner.

Countersigned:
SAM'L LEAVITT, *Secretary.*

(Endorsed.)

For value received I hereby sell and assign the within contract to —— ——, his heirs and assigns.

—— ——. [L. S.]

In presence of—
—— ——.

To the land department of the Minnesota Central Railroad Company:

You will please take notice that I have selected the lots 3 & 4 of section 31, town. 60, range 6 W., under the within contract and desire that you should issue to me the contract for that specific description, as provided in the within contract, and for that purpose I hereby surrender this contract.

Dated —— —, 188–.

L. M. RANNEY.

In presence of—
—— ——.

175 Received and filed in office of land department of Minnesota Central Railroad Company on this — day of ——, 188–, at — o'clock — m.

—— ——, *Secretary.*

176 (PLAINTIFF'S EXHIBIT E 1.)

Minnesota Central Railroad Company, land department.

No. A 4.

Contract.

Whereas P. M. Ranney has purchased of the land department of the Minnesota Central Railroad Company the right to locate forty acres of land pertaining to its land grant from the State of Minnesota and has paid the full purchase price therefor as per contract No. 59 issued by said land department;

And whereas he has selected under said contract and given this department written notice thereof the following-described lands situate in St. Louis county, Minnesota, to wit:

S. W. ¼ of S. E. ¼, section 29, town. 60 N., range 18 W., containing forty acres, more or less, according to Government survey of the same;

And whereas he has surrendered to this department the aforesaid contract:

Now, therefore, the said land department of the Minnesota Central Railroad Company, in consideration of the premises, hereby agrees to apply to the State of Minnesota to have said above-described lands deeded to this company under the terms of said land-grant acts, and as soon as the company acquires title thereto to deed the same to the legal holder of this contract at that time upon
177 his demand and the surrender of this contract at the office of said land department in the city of St. Paul, Minnesota.

In case it shall be found that the title to said lands or any part thereof cannot for any reason be obtained from the State, then the owner hereof shall be entitled to select a like quantity of land from any lands then in the hands of the State, title to which can be obtained by this company under said acts of the legislature of said State of Minnesota and not previously selected by the company or some other party holding the company's contract.

In witness whereof the said land department has caused these presents to be signed by its land commissioner and countersigned by the secretary of the land department, at St. Paul, Minnesota, this 22 day of June, 1883.

T. B. ELEMENT,
Land Commissioner.

Countersigned:
SAM'L LEAVITT, *Secretary.*

—— —, 188–.

For value received I hereby sell and assign the within contract to —— ——, his heirs or assigns.

P. M. RANNEY. [L. S.]

In presence of—
J. C. O'GORMAN.

178 (PLAINTIFF'S EXHIBIT E 2.)

Minnesota Central Railroad Company, land department.

No. A 5.

Contract.

Whereas P. M. Ranney has purchased of the land department of the Minnesota Central Railroad Company the right to locate forty acres of land pertaining to its land grant from the State of Minnesota, and has paid the full purchase price therefor as per contract No. 58 issued by said land department;

And whereas he has selected under said contract and given this department written notice thereof the following-described lands situate in St. Louis county, Minnesota, to wit, S. E. ¼ of S. E. ¼ or lot 4, section 29, town. 60 N., range 18 W., containing forty acres, more or less, according to the Government survey of the same;

And whereas he has surrendered to this department the aforesaid contract;

Now, therefore, the said land department of the Minnesota Central Railroad Company, in consideration of the premises, hereby agrees to apply to the State of Minnesota to have said above-described lands deeded to this company under the terms of said land-grant acts, and as soon as the company acquires title thereto to deed the same to the legal holder of this contract at that time
179 upon his demand and the surrender of this contract at the office of said land department in the city of St. Paul, Minnesota.

In case it shall be found that the title to said land or any part thereof cannot for any reason be obtained from the State, then the owner hereof shall be entitled to select a like quantity of land from any lands then in the hands of the State, title to which can be obtained by this company under said acts of the legislature of said State of Minnesota and not previously selected by the company or some other party holding the company's contract.

In witness whereof the said land department has caused these presents to be signed by its land commissioner and countersigned by the secretary of the land department at St. Paul, Minnesota, this 22 day of June, 1883.

T. B. ELEMENT,
Land Commissioner.

Countersigned:
SAM'L LEAVITT, *Secretary.*

—— —, 188–.

For value received I hereby sell and assign the within contract to —— ——, his heirs or assigns.

P. M. RANNEY. [L. S.]

In presence of—
J. C. O'GORMAN.

180 (PLAINTIFF'S EXHIBIT E 3.)

Minnesota Central Railroad Company, land department.

No. A 10.

Contract.

Whereas P. M. Ranney has purchased of the land department of the Minnesota Central Railroad Company the right to locate forty acres of land pertaining to its land grant from the State of Minnesota and has paid the full purchase price therefor as per contract No. 69, issued by said land department;

And whereas he has selected under said contract and given this department written notice thereof the following-described lands, situate in St. Louis county, Minnesota, to wit: N. E. ¼ of N. E. ¼, section 21, town. 60 N., range 16 W., containing forty acres, more or less, according to the Government survey of the same;

And whereas he has surrendered to this department the aforesaid contract:

Now, therefore, the said land department of the Minnesota Central Railroad Company, in consideration of the premises, hereby agrees to apply to the State of Minnesota to have said above-described lands deeded to this company under the terms of said land-grant acts, and as soon as the company acquires title thereto to deed the same to the legal holder of this contract at that time upon
181 his demand and the surrender of this contract at the office of said land department in the city of St. Paul, Minnesota.

In case it shall be found that the title to said land or any part thereof cannot for any reason be obtained from the State then the owner hereof shall be entitled to select a like quantity of land from any lands then in the hands of the State, title to which can be obtained by this company under said acts of the legislature of said State of Minnesota and not previously selected by the company or some other party holding the company's contract.

In witness whereof the said land department has caused these presents to be signed by its land commissioner and countersigned by the secretary of the land department at St. Paul, Minnesota, this first day of Sept., 1883.

T. B. ELEMENT,
Land Commissioner.

Countersigned:
SAM'L LEAVITT, *Secretary.*

—— —, 188–.

For value received I hereby sell and assign the within contract to —— ——, his heirs or assigns.

P. M. RANNEY. [L. S.]

In presence of—
J. C. O'GORMAN.

182 (PLAINTIFF'S EXHIBIT E 4.)

Minnesota Central Railroad Company, land department.

No. A 11.

Contract.

Whereas P. M. Ranney has purchased of the land department of the Minnesota Central Railroad Company the right to locate forty acres of land pertaining to its land grant from the State of Minnesota, and has paid the full purchase price therefor as per contract No. 68, issued by said land department;

And whereas he has selected under said contract and given this department written notice thereof the following-described lands, situate in St. Louis county, Minnesota, to wit, N. E. ¼ of N. W. ¼, section 19, town. 60 N., range 16 W., containing forty acres, more or less, according to the Government survey of the same;

And whereas he has surrendered to this department the aforesaid contract:

Now, therefore, the said land department of the Minnesota Central Railroad Company, in consideration of the premises, hereby agrees to apply to the State of Minnesota to have said above-described lands deeded to this company under the terms of said land-grant acts, and as soon as the company acquires title thereto to deed the same to the legal holder of this contract at that time
183 upon his demand and the surrender of this contract at the office of said land department, in the city of St. Paul, Minnesota.

In case it shall be found that the title to said land or any part thereof cannot for any reason be obtained from the State, then the owner hereof shall be entitled to select a like quantity of land from any lands then in the hands of the State, title to which can be obtained by this company under said acts of the legislature of said State of Minnesota and not previously selected by the company or some other party holding the company's contract.

In witness whereof the said land department has caused these presents to be signed by its land commissioner and countersigned by the secretary of the land department, at St. Paul, Minnesota, this first day of Sept., 1883.

T. B. ELEMENT,
Land Commissioner.

Countersigned:
SAM'L LEAVITT, *Secretary.*

—— —, 188–.

For value received, I hereby sell and assign the within contract to —— ——, his heirs or assigns.

P. M. RANNEY. [L. S.]

In presence of—
J. C. O'GORMAN.

184 (PLAINTIFF'S EXHIBIT E 5.)

Minnesota Central Railroad Company, land department.

No. A 12.

Contract.

Whereas P. M. Ranney has purchased of the land department of the Minnesota Central Railroad Company the right to locate forty acres of land pertaining to its land grant from the State of Minnesota and has paid the full purchase price therefor as per contract No. 70 issued by said land department;

And whereas he has selected under said contract and given this department written notice thereof, the following-described lands, situate in St. Louis county, Minnesota, to wit, N. W. ¼ N. E. ¼, section 21, town. 60 N., range 16 W., containing forty acres, more or less, according to the Government survey of the same;

And whereas he has surrendered to this department the aforesaid contract:

Now, therefore, the said land department of the Minnesota Central Railroad Company, in consideration of the premises, hereby agrees to apply to the State of Minnesota to have said above-described lands deeded to this company under the terms of said land-grant acts, and as soon as the company acquires title thereto to deed the same to the legal holder of this contract, at that time, upon his demand and the surrender of this contract at the office of
185 said land department in the city of St. Paul, Minnesota.

In case it shall be found that the title to said land, or any part thereof, cannot, for any reason, be obtained from the State, then the owner hereof shall be entitled to select a like quantity of land from any lands then in the hands of the State, title to which can be obtained by this company under said acts of the legislature of said State of Minnesota and not previously selected by the company or some other party holding the company's contract.

In witness whereof the said land department has caused these presents to be signed by its land commissioner and countersigned by the secretary of the land department at St. Paul, Minnesota, this first day of Sept., 1883.

T. B. ELEMENT,
Land Commissioner.

Countersigned:
SAM'L. LEAVITT, *Secretary.*

—— —, 188–.

For value received, I hereby sell and assign the within contract to —— ——, his heirs or assigns.

P. M. RANNEY. [L. S.]

In presence of—
J. C. O'GORMAN.

186 (PLAINTIFF'S EXHIBIT E 6.)

Minnesota Central Railroad Company, land department.

No. A 13.

Contract.

Whereas, P. M. Ranney has purchased of the land department of the Minnesota Central Railroad Company the right to locate forty acres of land pertaining to its land grant from the State of Minnesota, and has paid the full purchase price therefor as per contract No. 71 issued by said land department;

And whereas he has selected under said contract, and given this department written notice thereof, the following described lands situate in St. Louis county, Minnesota, to wit, S. W. ¼ N. E. ¼, section 21, town. 60 N., range 21 W., containing forty acres, more or less, according to Government survey of the same;

And whereas he has surrendered to this department the aforesaid contract:

Now, therefore, the said land department of the Minnesota Central Railroad Company, in consideration of the premises, hereby agrees to apply to the State of Minnesota to have said above-described lands deeded to this company under the terms of said land-grant acts, and as soon as the company acquires title thereto to deed the same to the legal holder of this contract at that
187 time, upon his demand and the surrender of this contract at the office of said land department, in the city of St. Paul, Minnesota.

In case it shall be found that the title to said land or any part thereof cannot, for any reason, be obtained from the State, then the owner hereof shall be entitled to select a like quantity of land from any lands then in the hands of the State, title to which can be obtained by this company under said acts of the legislature of said State of Minnesota and not previously selected by the company or some other party holding the company's contract.

In witness whereof the said land department has caused these presents to be signed by its land commissioner and countersigned by the secretary of the land department at St. Paul, Minnesota, this first day of September, 1883.

T. B. ELEMENT,
Land Commissioner.

Countersigned:
SAM'L LEAVITT, *Secretary.*

—— —, 188–

For value received, I hereby sell and assign the within contract to —— ——, his heirs or assigns.

P. M. RANNEY. [L. S.]

In presence of—
SAM'L LEAVITT.

188 (PLAINTIFF'S EXHIBIT E 7.)

Minnesota Central Railroad Company, land department.

No. A 14.

Contract.

Whereas P. M. Ranney has purchased of the land department of the Minnesota Central Railroad Company the right to locate forty acres of land pertaining to its land grant from the State of Minnesota, and has paid the full purchase price therefor as per contract No. 72, issued by said land department;

And whereas he has selected under said contract, and given this department written notice thereof, the following described lands situated in St. Louis county, Minnesota, to wit., S. E. ¼ of N. E. ¼, section 21, town. 60 N., range 16 W., containing forty acres. more or less, according to Government survey of the same;

And whereas he has surrendered to this department the aforesaid contract:

Now, therefore, the said land department of the Minnesota Central Railroad Company, in consideration of the premises, hereby agrees to apply to the State of Minnesota to have said above-described lands deeded to this company under the terms of said land-grant acts, and as soon as the company acquires title thereto to deed the same to the legal holder of this contract at that
189 time upon his demand and the surrender of this contract at the office of said land department in the city of St. Paul, Minnesota.

In case it shall be found that the title to said land, or any part thereof, cannot, for any reason, be obtained from the State, then the owner hereof shall be entitled to select a like quantity of land from any lands then in the hands of the State, title to which can be obtained by this company under said acts of the legislature of said State of Minnesota and not previously selected by the company or some other party holding the company's contract.

In witness whereof the said land department has caused these presents to be signed by its land commissioner and countersigned by the secretary of the land department, at St. Paul, Minnesota, this first day of September, 1883.

T. B. ELEMENT,
Land Commissioner.

Countersigned:
SAM'L LEAVITT, *Secretary.*

—— —, 188–.

For value received, I hereby sell and assign the within contract to —— ——, his heirs or assigns.

P. M. RANNEY. [L. S.]

In presence of—
J. C. O'GORMAN,

190 (PLAINTIFF'S EXHIBIT E 8.)

Minnesota Central Railroad Company, land department.

No. A.

Contract.

Whereas P. M. Ranney has purchased of the land department of the Minnesota Central Railroad Company the right to locate forty acres of land pertaining to its land grant from the State of Minnesota and has paid the full purchase price therefor as per contract No. 73 issued by said land department;

And whereas he has selected under said contract and given this department written notice thereof the following-described lands situate in St. Louis county, Minnesota, to wit, N. W. ¼ of S. W. ¼, section 23, town. 60 N., range 16 W., containing forty acres, more or less, according to Government survey of the same;

And whereas he has surrendered to this department the aforesaid contract:

Now, therefore, the said land department of the Minnesota Central Railroad Company, in consideration of the premises, hereby agrees to apply to the State of Minnesota to have said above-described lands deeded to this company under the terms of said land-grant acts, and, as soon as the company acquires title thereto, to deed the same to the legal holder of this contract at that time
191 upon his demand and the surrender of this contract at the office of said land department in the city of St. Paul, Minnesota.

In case it shall be found that the title to said land or any part thereof cannot, for any reason, be obtained from the State, then the owner hereof shall be entitled to select a like quantity of land from any lands then in the hands of the State, title to which can be obtained by this company under said acts of the legislature of said State of Minnesota and not previously selected by the company or some other party holding the company's contract.

In witness whereof the said land department has caused these presents to be signed by its land commissioner and countersigned by the secretary of the land department at St. Paul, Minnesota, this first day of September, 1883.

T. B. SELEMENT,
Land Commissioner.

Countersigned:
SAM'L LEAVITT, *Secretary.*

—— —, 188–.

For value received, I hereby sell and assign the within contract to —— ——, his heirs or assigns.

P. M. RANNEY. [L. S.]

In presence of—
J. C. O'GORMAN.

192 (PLAINTIFF'S EXHIBIT E 9.)

Minnesota Central Railroad Company, land department.

No. A.

Contract.

Whereas P. M. Ranney has purchased of the land department of the Minnesota Central Railroad Company the right to locate forty acres of land pertaining to its land grant from the State of Minnesota and has paid the full purchase price therefor, as per contract No. 75, issued by said land department;

And whereas he has selected under said contract and given this department written notice thereof the following-described land situated in St. Louis county, Minnesota, to wit, lot 1, section 3, town. 64 N., range 21 W., containing sixty-one acres (61), more or less, according to Government survey of the same;

And whereas he has surrendered to this department the aforesaid contract:

Now, therefore, the said land department of the Minnesota Central Railroad Company, in consideration of the premises, hereby agrees to apply to the State of Minnesota to have said above-described lands deeded to this company under the terms of said land-grant acts, and as soon as the company acquires title thereto to deed the same to the legal holder of this contract at that time
193 upon his demand and the surrender of this contract at the office of said land department in the city of St. Paul, Minnesota.

In case it shall be found that the title to said land or any part thereof cannot for any reason be obtained from the State, then the owner hereof shall be entitled to select like quantity of land from any lands then in the hands of the State, title to which can be obtained by this company under said acts of the legislature of said State of Minnesota and not previously selected by the company or some other party holding the company's contract.

In witness whereof the said land department has caused these presents to be signed by its land commissioner and countersigned by the secretary of the land department, at St. Paul, Minnesota, this first day of September, 1883.

T. B. SELEMENT,
Land Commissioner.

Countersigned:
SAM'L LEAVITT, *Secretary.*

—— —, 188–.

For value received, I hereby sell and assign the within contract to —— ——, his heirs or assigns.

P. M. RANNEY. [L. S.]

In presence of—
J. C. O'GORMAN.

194 (PLAINTIFF'S EXHIBIT E 10.)

Minnesota Central Railroad Company, land department.

No. A.

Contract.

Whereas P. M. Ranney has purchased of the land department of the Minnesota Central Railroad Company the right to locate forty acres of land pertaining to its land grant from the State of Minnesota, and has paid the full purchase price therefor as per contract No. —, issued by said land department;

And whereas he has selected under said contract and given this department written notice thereof the following-described lands situate in St. Louis county, Minnesota, to wit: S. W. ¼ of S. W. ¼, section 23, town. 60 N., range 16 W., containing forty acres, more or less, according to Government survey of the same;

And whereas he has surrendered to this department the aforesaid contract:

Now, therefore, the said land department of the Minnesota Central Railroad Company in consideration of the premises hereby agrees to apply to the State of Minnesota to have said above-described lands deeded to this company under the terms of said land-grant acts, and as soon as the company acquires title thereto to deed the same to the legal holder of this contract at that time,
195 upon his demand, and the surrender of this contract at the office of said land department, in the city of St. Paul, Minnesota.

In case it shall be found that the title to said land or any part thereof cannot for any reason be obtained from the State, then the owner hereof shall be entitled to select a like quantity of land from any lands then in the hands of the State, title to which can be obtained by this company under said acts of the legislature of said State of Minnesota, and not previously selected by the company or some other party holding the company's contract.

In witness whereof the said land department has caused these presents to be signed by its land commissioner and countersigned by the secretary of the land department, at St. Paul, Minnesota, this first day of September, 1883.

T. B. SELEMENT,
Land Commissioner.

Countersigned:
SAM'L LEAVITT, *Secretary.*

—— —, 188–.

For value received I hereby sell and assign the within contract to —— ——, his heirs or assigns.

P. M. RANNEY. [L. S.]

In presence of—
J. C. O'GORMAN.

196 (PLAINTIFF'S EXHIBIT E 11.)

Minnesota Central Railroad Company, land department.

No. A.

Contract.

Whereas P. M. Ranney has purchased of the land department of the Minnesota Central Railroad Company the right to locate forty acres of land pertaining to its land grant from the State of Minnesota, and has paid the full purchase price therefor as per contract No. 76, issued by said land department; and

Whereas he has selected under said contract and given this department written notice thereof, the following-described lands situate in St. Louis county, Minnesota, to wit: S. W. ¼ of S. E. ¼ section 11, town. 64 N., range 21 W., containing forty acres, more or less, according to Government survey of the same;

And whereas he has surrendered to this department the aforesaid contract:

Now, therefore, the said land department of the Minnesota Central Railroad Company, in consideration of the premises, hereby agrees to apply to the State of Minnesota to have said above-described lands deeded to this company under the terms of said land-grant acts, and as soon as the company acquires title thereto to deed the same to the legal holder of this contract at that time
197 upon his demand, and the surrender of this contract at the office of said land department in the city of St. Paul, Minnesota.

In case it shall be found that the title to said land or any part thereof cannot for any reason be obtained from the State, then the owner hereof shall be entitled to select a like quantity of land from any lands then in the hands of the State, title to which can be obtained by this company under said acts of the legislature of said State of Minnesota and not previously selected by the company or some other party holding the company's contract.

In witness whereof the said land department has caused these presents to be signed by its land commissioner and countersigned by the secretary of the land department, at St. Paul, Minnesota, this first day of September, 1883.

T. B. SELEMENT,
Land Commissioner.

Countersigned:
SAM'L LEAVITT, *Secretary.*

—— —, 188–.

For value received I hereby sell and assign the within contract to —— ——, his heirs or assigns.

P. M. RANNEY. [L. S.]

In presence of—
J. C. O'GORMAN.

198 (PLAINTIFF'S EXHIBIT E 12.)

Minnesota Central Railroad Company, land department.

No. A.

Contract.

Whereas P. M. Ranney has purchased of the land department of the Minnesota Central Railroad Company the right to locate forty acres of land pertaining to its land grant from the State of Minnesota, and has paid the full purchase price therefor, as per contract No. 67, issued by said land department;

And whereas he has selected under said contract and has given this department written notice thereof the following-described lands, situate in St. Louis county, Minnesota, to wit: N. E. ¼ of N. E. ¼, section 27, town. 65 N., range 21 W., containing forty acres, more or less, according to Government survey of the same;

And whereas he has surrendered to this department the aforesaid contract:

Now, therefore, the said land department of the Minnesota Central Railroad Company, in consideration of the premises, hereby agrees to apply to the State of Minnesota to have said above-described lands deeded to this company under the terms of said land-grant acts and as soon as the company acquires title thereto to deed the same
199 to the legal holder of this contract at that time upon his demand and the surrender of this contract at the office of said land department, in the city of St. Paul, Minnesota.

In case it shall be found that the title to said land or any part thereof cannot for any reason be obtained from the State, then the owner hereof shall be entitled to select a like quantity of land from any lands then in the hands of the State, title to which can be obtained by this company under said acts of the legislature of said State of Minnesota and not previously selected by the company or some other party holding the company's contract.

In witness whereof the said land department has caused these presents to be signed by its land commissioner and countersigned by the secretary of the land department at St. Paul, Minnesota, this first day of September, 1883.

T. B. SELEMENT,
Land Commissioner.

Countersigned:
SAM'L LEAVITT, *Secretary.*

—— —, 188–.

For value received I hereby sell and assign the within contract to —— ——, his heirs or assigns.

—— ——. [L. S.]

In presence of—
—— ——.

200 (PLAINTIFF'S EXHIBIT E 13.)

Minnesota Central Railroad Company, land department.

No. A.

Contract.

Whereas P. M. Ranney has purchased of the land department of the Minnesota Central Railroad Company the right to locate forty acres of land pertaining to its land grant from the State of Minnesota, and has paid the full purchase price therefor, as per contract No. 66 issued by said land department;

And whereas he has selected under said contract and given this department written notice thereof the following-described lands, situate in St. Louis county, Minnesota, to wit: N. E. ¼ of S. E. ¼, section 31, town. 60 N., range 14 W., containing forty acres, more or less, according to Government survey of the same;

And whereas he has surrendered to this department the aforesaid contract:

Now, therefore, the said land department of the Minnesota Central Railroad Company in consideration of the premises hereby agrees to apply to the State of Minnesota to have said above-described lands deeded to this company under the terms of said land-grant acts, and as soon as the company acquires title thereto to deed the same to the legal holder of this contract at that
201 time, upon his demand and the surrender of this contract at the office of said land department, in the city of St. Paul, Minnesota.

In case it shall be found that the title to said land or any part thereof cannot for any reason be obtained from the State, then the owner hereof shall be entitled to select a like quantity of land from any lands then in the hands of the State, title to which can be obtained by this company under said acts of the legislature of said State of Minnesota and not previously selected by the company or some other party holding the company's contract.

In witness whereof the said land department has caused these presents to be signed by its land commissioner and countersigned by the secretary of the land department, at St. Paul, Minnesota, this first day of September, 1883.

T. B. SELEMENT,
Land Commissioner.

Countersigned:
SAM'L LEAVITT, *Secretary.*

—— —, 188–.

For value received I hereby sell and assign the within contract to —— ——, his heirs or assigns.

P. M. RANNEY. [L. S.]

In presence of—
J. C. O'GORMAN.

202 (PLAINTIFF'S EXHIBIT E 14.)

Minnesota Central Railroad Company, land department.

No. A 21.

Contract.

Whereas P. M. Ranney has purchased of the land department of the Minnesota Central Railroad Company the right to locate forty acres of land pertaining to its land grant from the State of Minnesota, and has paid the full purchase price therefor as per contract No. 77 issued by said land department;

And whereas he has selected under said contract, and has given this department written notice thereof, the following-described lands situate in St. Louis county, Minnesota, to wit: N. E. ¼ of N. W. ¼, section 35, town. 63 N., range 23 W., containing forty acres, more or less, according to Government survey of the same;

And whereas he has surrendered to this department the aforesaid contract:

Now, therefore, the said land department of the Minnesota Central Railway Company in consideration of the premises hereby agrees to apply to the State of Minnesota to have said above-described lands deeded to this company under the terms of said land-grant acts, and as soon as the company acquires title thereto to deed the same to the legal holder of this contract at that time
203 upon his demand and the surrender of this contract at the office of said land department in the city of St. Paul, Minnesota.

In case it shall be found that the title to said land or any part thereof cannot for any reason be obtained from the State, then the owner hereof shall be entitled to select a like quantity of land from any lands then in the hands of the State, title to which can be obtained by this company under said acts of the legislature of said State of Minnesota, and not previously selected by the company or some other party holding the company's contract.

In witness whereof the said land department has caused these presents to be signed by its land commissioner and countersigned by the secretary of the land department at St. Paul, Minnesota, this fourth day of September, 1883.

T. B. ELEMENT,
Land Commissioner.

Countersigned:
SAM'L LEAVITT, *Secretary.*

—— —, 188–.

For value received I hereby sell and assign the within contract to —— ——, his heirs or assigns.

P. M. RANNEY. [L. S.]

In presence of—
J. C. O'GORMAN.

204 (PLAINTIFF'S EXHIBIT E 15.)

Minnesota Central Railroad Company, land department.

No. A 22.

Contract.

Whereas P. M. Ranney has purchased of the land department of the Minnesota Central Railroad Company the right to locate forty acres of land pertaining to its land grant from the State of Minnesota, and has paid the full purchase price therefor as per contract No. 79, issued by said land department;

And whereas he has selected under said contract, and has given this department written notice thereof, the following-described lands, situate in Itaska county, Minnesota, to wit, S. W. ¼ of N. W. ¼, section 35, town. 63 N., range 23 W., containing forty acres, more or less, according to Government survey of the same;

And whereas he has surrendered to this department the aforesaid contract:

Now, therefore, the said land department of the Minnesota Central Railroad Company, in consideration of the premises, hereby agrees to apply to the State of Minnesota to have said above-described lands deeded to this company under the terms of said land-grant acts, and as soon as the company acquires title thereto to deed the same to the legal holder of this contract at that
205 time upon his demand and the surrender of this contract at the office of said land department, in the city of St. Paul, Minnesota.

In case it shall be found that the title to said land or any part thereof cannot, for any reason, be obtained from the State, then the owner hereof shall be entitled to select a like quantity of land from any lands then in the hands of the State, title to which can be obtained by this company under said acts of the legislature of said State of Minnesota and not previously selected by the company or some other party holding the company's contract.

In witness whereof the said land department has caused these presents to be signed by its land commissioner and countersigned by the secretary of the land department, at St. Paul, Minnesota, this fourth day of September, 1883.

T. B. SELEMENT,
Land Commissioner.

Countersigned:
SAM'L LEAVITT, *Secretary.*

—— —, 188–.

For value received, I hereby sell and assign the within contract to —— ——, his heirs or assigns.

P. M. RANNEY. [L. S.]

In presence of—
J. C. O'GORMAN.

206 (PLAINTIFF'S EXHIBIT E 16.)

Minnesota Central Railroad Company, land department.

No. A 23.

Contract.

Whereas P. M. Ranney has purchased of the land department of the Minnesota Central Railroad Company the right to locate forty acres of land pertaining to its land grant from the State of Minnesota, and has paid the full purchase price therefor as per contract No. 78, isued by said land department;

And whereas he has selected under said contract and has given this department written notice thereof the following-described lands situated in Itaska county, Minnesota, to wit, N. W. ¼ of N. W. ¼, section 35, town. 63 N., range 23 W., containing forty acres, more or less, according to Government survey of the same;

And whereas he has surrendered to this department the aforesaid contract:

Now, therefore, the said land departmeat of the Minnesota Central Railroad Company, in consideration of the premises, hereby agrees to apply to the State of Minnesota to have said above-described lands deeded to this company under the terms of said land-grant acts, and as soon as the company acquires title thereto to deed the same
207 to the legal holder of this contract at that time upon his demand and the surrender of this contract at the office of said land department in the city of St. Paul, Minnesota.

In case it shall be found that the title to said land or any part thereof cannot for any reason be obtained from the State, then the owner hereof shall be entitled to select a like quantity of land from any lands then in the hands of the State, title to which can be obtained by this company under said acts of the legislature of said State of Minnesota and not previously selected by the company or some other party holding the company's contract.

In witness whereof the said land department has caused these presents to be signed by its land commissioner and countersigned by the secretary of the land department, at St. Paul, Minnesota, this fourth day of September, 1883.

T. B. SELMENT,
Land Commissioner.

Countersigned:
SAM'L LEAVITT, *Secretary.*

—— —, 188–.

For value received, I hereby sell and assign the within contract to —— ——, his heirs or assigns.

P. M. RANNEY. [L. S.]

In presence of—
J. C. O'GORMAN.

208 PLAINTIFF'S EXHIBIT F.

P. M. Ranney's.

Return to C. N. Nelson Lumber Co. if not delivered within 10 days.

(3.) Warranty deed.

Not to be delivered unless written order from P. M. Ranney.

209 (PLAINTIFF'S EXHIBIT G.)

	S.	T.	R.
S e of s e	10	59	15
N e of n e & s e of s e	15	59	15
S e of s e	13	59	15
E ½ of n e, s w of n e	20	59	15
N e of n w	21	59	15
N ½ of n e, n e of n w	22	59	15
S e of s e	22	59	15
N e of n w	25	59	15
Lots 2 & 3	4	55	17
S e of n w	4	55	17
S ½ of n e	4	55	17
W ½ of s e, e ½ of s w	4	55	17
N w of s w	4	55	17
Lot 2	28	56	17
Lot 6	33	56	17
210 S e n e	3	54	14
S w n e	3	54	14
N e s e	25	54	14
N w s e	25	54	14
S w s e	25	54	14
S w s w	25	54	14
N w s w	25	54	14
S e s w	26	54	14
N e n e	10	55	21
N w n w	10	55	21
N e n w	10	55	21
S e s e	10	55	21
N w n w	14	55	21
S w n w	17	55	21
N e n e	21	55	21
Lot No. 1	21	55	21
N e s e	22	55	21
N w s e	22	55	21
S w s e	22	55	21
S e s e	22	55	21

(*Plaintiff's Exhibit G*)—Continued.

		S.	T.	R.
	S w s w	23	55	21
	N w s w	23	55	21
	N w n w	25	55	21
	N e n w	25	55	21
	N e n e	26	55	21
	N w n e	26	55	21
211	N e n w	26	55	21
	N w n w	26	55	21
	N e n e	27	55	21
	N e s w	28	55	21
	Lot No. 2	28	55	21
212	N e of n e	4	59	14
	N e of s e	31	60	14
	S w ¼ of s e, n ½ of s w	32	60	14
	W ½ of n e	9	60	14
	N e ¼ of s e	6	58	14
	N ½ of n e, s ½ of s e	26	58	14
	S w ¼ of s w ¼	3	60	15
	N e ¼ of s e ¼	6	60	15
	S w ¼ of s w ¼ of s e	9	60	15
	N e of n w	10	60	15
	N e of n w	14	60	15
	N e of s e, s w of s e	26	60	15
	S w of n e, lots 1 & 2	5	61	15
	Lots 1 & 2	6	61	15
	N e of n w, s ½ of s e, s e s w	19	60	16
	N e ¼	21	60	16
	W ½ of s w	23	60	16
	N ½ of s e	12	60	16
	S e of s e	18	60	16
	E ½ of s e	22	60	16
	N ½ of n e, s w of n e, n w of s e	24	60	16
	S w of s w	6	60	16
	S ½ of n w	29	60	16
	Lots 5 & 8	23	58	16
	Lot 1	2	52	17
	S e of n w, s e of s w	14	52	17
213	S w of s e	10	50	17
	N ½ of s e	10	57	17
	N w of s e	17	57	17
	S e of n e, n e of s e	20	57	17
	S ½ of n w, n e of s e	26	57	17
	N ½ of s e	13	60	17
	N e of n e	19	60	17
	N w of n w	20	60	17

(*Plaintiff's Exhibit G*)—Continued.

	S.	T.	R.
N ½ of s w, s e of s w, & lot- 3 & 4	1	60	17
N ½ of s e	2	60	17
N ½ of n e	12	60	17
S ½ of s e	29	60	18
W ½ of n e	32	60	18
N w of s w	22	60	18
S ½ of n e	32	58	18
S w of n e, n ½ of s e, s e of s e	4	50	19
S w of s w	8	50	19
N e of n w, n w of n e	10	52	19
N w of n w, n w of s w	14	63	19
S e of n e	22	63	19
S w of n w, s e of n e	23	63	19
S e of n e	19	57	20
W ½ of s w	28	57	20
E ½ of n e	32	57	20
Lot 4	7	47	20
Lot 1	18	47	20
Lot 7, n e of s e	1	56	20
214 S w of n w	4	56	20
S e of n e, n ½ of s e	12	56	20
N e of n w	25	64	20
W ½ of n e	24	64	20
N w of n e, n w of s e	26	64	20
N w of s w	4	66	20
N e of n e	15	66	20
Lot 2	31	56	21
Lot 1	3	64	21
S w of s e	11	64	21
Lot- 1, 2, 3, & 6	2	64	21
S e of n e, lot 4	12	64	21
N e of n e	27	65	21
S w of n e, e ½ of n w	34	65	21
N e of s w & lot 1	34	65	21
W ½ of n w, s w of n w	35	63	23
N e ¼, n e of n w	34	63	23
Lots 3 & 4	31	60	6
Lots 3 & s w of n w	15	59	6
N ½ of n e	17	59	6
S w of s w	33	59	6
Lot 8	10	59	6

215 This indenture, made this 16th day of September in the year of our Lord one thousand eight hundred and eighty-four between Phillip M. Ranney of the city of Saint Paul, Minnesota, party of the first part and — — party of the second part, witnesseth, that the said party of the first part, for and in consideration of the sum of — dollars, to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and conveyed, and by these presents doth grant, bargain, sell and convey unto the said party of the second part, his heirs or assigns, forever, all the following-described tracts, pieces or parcels of land, situate in the county of Saint Louis and State of Minnesota, and known and described as follows, to wit: The northeast quarter of the northeast quarter of section two (2) the southeast quarter of the northwest quarter and the southeast quarter of the southwest quarter of section fourteen (14) in township fifty-two (52) north of range seventeen (17) west, the north half of the southeast quarter of section ten (10) the northwest quarter of the southeast quarter of section *section* seventeen (17) the southeast quarter of the northeast quarter and the northeast quarter of the southeast quarter of section twenty (20). The south half of the northwest quarter and the northeast quarter of the southeast quarter of section twenty-six (26) in township fifty-seven (57) north of range seventeen (17) west. The lots three (3) in section twenty-eight (28) in town-ship fiftyone (51) north of range eighteen (18) west.

216 The southwest quarter of the southwest quarter of *of* section eight (8) in township fifty (50) north of range nineteen (19) west. The northeast quarter of the southeast quarter and lot seven in section one (1) the southwest quarter of the northwest quarter of section four (4) the southeast quarter of the northeast quarter and the north half of the southeast quarter of section twelve (12) in township fifty-six (56) north of range twenty (20) west. The west half of the southwest quarter of section twenty-eight (28) the east half of the northeast quarter of section thirty-two (32) in township fifty-seven (57) north of range twenty (20) west, the lots five (5) and eight (8) of section twenty-three (23) in township fifty-eight (58) north of range sixteen (16) west. The northeast quarter of the northwest quarter and the northwest quarter of the northeast quarter of section ten (10) in township fifty-two (52) north of range nineteen (19) west. The northeast quarter of the southeast quarter of section six (6) the north half of the northeast quarter and the south half of the southeast quarter of section twenty-six (26) in township fifty-eight (58) north of range fourteen (14) west. The southwest quarter of the southeast quarter of section ten (10) in township fifty (50) north of range seventeen (17) west. The southwest quarter of the northeast quarter, the north half of the southeast quarter and the southeast quarter of the southeast quarter of section four (4) in township fifty (50) north of range nineteen (19) west, the southeast quarter of the northeast quarter of section nineteen (19) in township fifty-seven (57) north of range twenty (20) west and lot two (2) of section thirty-one (31) in township fifty-six

217 (56) north of range twenty-one (21) west of the 4th principal

meridian containing 1,543.33 acres more or less. To have and to hold the same together with all and singular the heredita-nts and appurtainants thereunto belonging, or in anywise appertaining, unto the said party of the second part, his heirs and assigns forever. And the said Philip M. Ranney party of the first part, doth covenant, with the said party of the second part, his heirs and assigns, as follows: First, that he is lawfully seized of said premises: second, that he has good right to convey the same; third, that the same are free from all incumbrances: fourth, that the said party of the second part his heirs and assigns, shall quietly enjoy and posses: the same: and fifth, that the saipd party of the first part will warrant and defend the title to the same against all lawful claims.

In testimony whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written.

PHILIP M. RANNEY.

Signed, sealed, and delivered in presence of—
CHARLES G. LAWERENCE.

STATE OF MINNESOTA, } ss:
County of Ramsey, }

On this 16th day of September, A. D. 1884, before me personally appeared Philip M. Ranney, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

(Signed) CHARLES G. LAWRENCE,
Notary Public, Ramsey Co., Minn.

218 This indenture, made this 16th day of September in the year of our Lord one thousand eight hundred and eighty-four between Philip M. Ranney a single man of the city of Saint Paul and State of Minnesota part- of the first part and —— —— party of the second part,

Witnesseth, that the said party of the first part, in consideration of the sum of — dollars, to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, doth hereby grant, bargain, sell and convey, unto the said party of the second part, heirs, and assigns, forever, all those tracts or parcels of land lying and being in the county of Carlton and State of Minnesota, described as follows, to wit: The lots number four (4) in section seven (7) and the lot number one (1) in section eighteen (18) in township fourty-seven (47) north of range twenty (20) west of the 4th principal meridian containing 59.84 acres more or less according to the Government survey thereof.

To have and to hold the same, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the said party of the second part, heirs and assigns, forever, and the said Philip M. Ranney party of the first part, for himself and his heirs, executors and administrators, doth covenant with the said party of the second part, heirs and assigns, that he is well seized in fee of the lands and premises aforesaid, and has good right to sell

and convey the same in manner and form aforesaid; that the same are free from all incumberances; and the above bargained and granted lands and premises, in the quiet and peac-able pos-
219 session of the said part- of the second part, heirs and assigns, against all persons lawfully claiming or to claim the whole or any part thereof, the said party of the first part will warrant and defend.

In testimony whereof the said party of the first part hereunto set his hand and seal the day and year first above written.

(Signed) PHILIP M. RANNEY.

Signed, sealed, and delivered in the presence of—
CHARLES G. LAWERENCE.

STATE OF MINNESOTA, } ss:
County of Ramsey, }

I, Charles G. Lawerence, a notary public within and for said county, do hereby certify that on this 16th day of September, A. D. 1884, personally came before me Philip M. Ranney, to me well known as the person described in and who executed the foregoing deed, and he duly acknowledged that he executed the same freely and voluntarily.

(Signed) CHARLES G. LAWERENCE,
Notary Public, Minn.

220 This indenture, made this 16th day of September in the year of our Lord one thousand eight hundred and eighty-four between Philip M. Ramsey a single man of the city of St. Paul and State of Minnesota, party of the first part, and —— —— part- of the second part, witnesseth,

That the said party of the first part, in consideration of the sum of — dollars, to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, doth hereby grant, bargain, sell and convey, unto the said party of the second part, heirs and assigns, forever, all that tract or parcel of land, lying and being in the county of Itasca and State of Minnesota, described as follows, to wit; the southeast quarter of the northeast quarter of section twenty-eight (28) in township fifty-nine (59) north of range twenty-six (26) west of the 4th principal meridian, containing according to the United States survey forty (40) acres more or less.

To have and to hold the same, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the said part- of the second part, heirs and assigns, forever, and the said Philip M. Ranney, party of the first part, for himself and his heirs, executors and administrators, do- covenant with the said party of the second part, heirs and assigns, that he is well *siezed* in fee of the lands and premises aforesaid, and has good right to sell and convey the same in manner and form aforesaid; that
221 the same are free from all encumbrances; and the above bargained and granted lands and premises, in the quiet and peac-able possession of the said part- of the second part, heirs and

assigns, against all persons lawfully claiming or to claim the whole or any part thereof, the said part- of the first part will warrant and defend.

In testimony whereof, the said party of the first part, hereunto set his hand and seal the day and year first above written.

PHILIP M. RANNEY.

Signed, sealed, and delivered in presence of—
CHARLES G. LAWERENCE.

STATE OF MINNESOTA, } ss:
County of Ramsey, }

I, Charles G. Lawerence, a notary public within and for *siad* county, do hereby certify that this 16th day of September, A. D. 1884, personally came before me Philip M. Ranney, to me well known as the same person described in and who executed the foregoing deed, and he duly acknowledged that he executed the same freely and voluntarily.

(Signed) CHARLES G. LAWERENCE,
Notary Public, Minn.

222 This indenture, made this 16th day of September in the year of our Lord one thousand eight hundred and eighty-four, between —— —— party of the first part, and Philip M. Ranney of the city of St. Paul Minnesota, party of the second part, witnesseth, that the said party of the first part, for and in consideration of the sum of — dollars, to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, doth by these presents, grant, bargain, sell and convey to the said party of the second part, his heirs and assigns, forever, all these tracts or parcels of land, lying and being in the county of Saint Louis and State of Minnesota, described as follows, to wit: The northeast quarter of the northeast quarter of section two (2) the southeast quarter of the southwest quarter and the southeast quarter of the northwest quarter of section fourteen (14) in township fifty-two (52) north of range seventeen (17) west, the north half of the southeast quarter of section ten (10) the northwest quarter of the southeast quarter of section seventeen (17) the southeast quarter of the northeast quarter and the northeast quarter of the southeast quarter of section twenty (20) the south half of the southwest quarter and the northeast quarter of the southeast quarter of section twenty-six (26) in township fifty-seven (57) north of range seventeen (17) west, lot three (3) of section twenty-eight (28) in township fifty-one (51) north of range eighteen (18) west, the southwest quarter of the southwest quarter of section eight (8) in township fifty (50) north of range nineteen (19)
223 west, the northeast quarter of the southeast quarter and lot seven (7) of *of* section one (1) the southwest quarter of the southwest quarter of section four (4) the southeast quarter of the northeast quarter and the north half of the southeast quarter of section twelve (12) in township fifty-six (56) north of range twenty (20) west. The west half of the southwest quarter of section twenty-

eight (28) and the east half of the northeast quarter of section thirty-two (32) in township fifty-seven (57) north of range twenty (20) west, lots five (5) and eight (8) in section twenty-three (23) in township fifty-eight (58) north of range sixteen (16) west. The northeast quarter of the northwest quarter and the northwest quarter of the northeast quarter of section ten (10) in township fifty-two (52) north of range nineteen (19) west. The northeast quarter of the southeast quarter of section six (6) the north half of the northeast quarter and the south half of the southeast quarter of section twenty-six (26) in township fifty-eight (58) north of range fourteen (14) west. The southwest quarter of the southeast quarter of section ten (10) in township fifty (50) north of range seventeen (17) west. The southwest quarter of the northeast quarter and the north half of the southeast quarter of section four (4) in township fifty (50) north of range nineteen (19) west, the southeast quarter of the northeast quarter of section nin-teen (19) in township fifty-seven (57) north of range twenty (20) west. Lot two (2) of section thirty-one (31) in township fifty-six (56) north of range twenty-one (21) west of fourth principal meridian containing 1,543.33 — more or less according to the Government survey.

224 To have and to hold the same, together with all the hereditaments and the appurtenances thereunto belonging, or in anywise appertaining, unto the said party of the second part, heirs and assigns, forever: and the said part- of the first part, doth covenant with the said party of the second part, his heirs and assigns, -s follows: First, that he is lawfully seized of said premises; second, that he has good right to convey the same; third, that the same -re free from all incumberances: the said party of the second part his heirs and assigns, shall quietly enjoy and possess the same; and that the said party of the first part will warrant and defend the title to the same against all lawful claims.

Provided, nevertheless, that if the said party of the first part, heirs, executors or administrators, shall well and truly pay, or cause to be paid, to the said party of the second part, his heirs, executors, administrators or assigns, the sum of — dollars, and interest, according to the conditions of — bearing even date herewith, then this deed to be null and void, otherwise to be and remain in full force and effect. But if default shall be made in the payment of said sum of money, or interest, or any part thereof, at the time and in the manner hereinbefore specified for the payment thereof, the said part- of the first part in such case do hereby authorize and fully empower the said part- of the second part, heirs, executors, administrators or assigns, to sell the hereby-granted premises at public auction, and convey the same to the purchaser in fee simple, agreeably to the statute in such case made and

225 provided, and out of the moneys arising from such sale to retain the principal and interest which shall then be due on the said note together with all costs and charges, and also the sum of two hundred dollars, as attorney's fees, and pay the overplus (if any) to the said party of the first part, his heirs, administrators or assigns.

And the said — doth further covenant and agree to and with the said party of the second part, his heirs, executors, administrators, and assigns to pay said sum of money above specified at the time and in the manner above mentioned, together with all costs and expenses, if any there shall be; and also in case of the foreclosure of this mortgage the sum of two hundred dollars as attorney's fees, in addition to all sums and costs allowed in that behalf by law, which said sum is hereby acknowledged and declared to be a part of the debt hereby secured and which shall be assessed and payable as part of said debt, and that he will pay all taxes and assessments of every nature that may be assessed on said premises or any part thereof previous to the day appointed by law for the sale of lands for town, city, county, or State taxes.

In testimony whereof the said part- of the first part——

226 PLAINTIFF'S EXHIBIT M.

Return, if not called for in 10 days, to N. W. M'f'g & Car Co., manufacturers of Minnesota Chief threshers, lumber, woodenware, doors, sash, and blinds, Stillwater, Minn.

Abstracts to Ranney & Sabin lands.

227 (PLAINTIFF'S EXHIBIT) No. N 1.

Haines' abstract office, St. Louis county, State of Minnesota.

MAY 20TH, A. D. 1884, AT 2 — M.

1.

The United States to The State of Minnesota.	N. E. ¼ of N. E. ¼ of S. 2, T. 52, R. 17, 39.01 acres; S. E. ¼ of N. W. ¼ of S. 14, T. 52, R. 17, 40 acres; S. E. ¼ of S. W. ¼ of S. 14, T. 52, R. 17, 40 acres; lot 3, in S. 28, T. 51, R. 18, 54 acres. Patent, Oct. 12, 1880. State auditor's certificate dated May 7, 1884.

2.

The State of Minnesota to The Minneapolis & St. Cloud Railroad Company.	Same as No. 1. Deed dated Jan. 11, 1884. Filed May 9, 1884, 10 a. m., Book Y, 281. State auditor's certificate dated May 7, 1884.

3.

The Minneapolis & St. Cloud Railroad Company to John S. Pillsbury.	Same as No. 1, with other lands, $3,269.27. Warranty deed dated M'ch 7, 1884. Filed May 9, 1884, 10 a. m., Book Y, page 285.

I hereby certify that the foregoing abstract of title to the lands

therein described is correct as the same appears upon the original records, which have been carefully reviewed and compared to date.

CHAS. R. HAINES,
Abstract Agent.

(Endorsed :) Abstract of title from Haines' abstract office, St. Louis county, Minnesota. N 1.

228 (PLAINTIFF'S EXHIBIT) No. N 2.

Haines' abstract office, St. Louis county, State of Minnesota.

MAY 20TH, A. D. 1884, AT 2 — M.

1.

The United States to The State of Minnesota.	S. W. ¼ of S. W. ¼ of S. 8, T. 50, R. 19, 40 acres. Patent dated Oct. 18th, 1883. State auditor's certificate dated May 7th, 1884.

2.

The State of Minnesota to The Minneapolis & St. Cloud Railroad Company.	S. W. ¼ of S. W. ¼ of S. 8, T. 50, R. 19, 40 acres. Deed dated Jan. 11, 1884. Filed May 9th, 1884, 10 a. m., Book Y, page 280. State auditor's certificate dated May 7, 1884.

3.

The Minneapolis & St. Cloud Railroad Company to John S. Pillsbury.	S. W. ¼ of S. W. ¼, S. 8, T. 50, R. 19, 40 acres, $3,269.27. Warranty deed dated March 7th, 1884. Filed May 9, 1884, 10 a. m., Book Y, page 285.

I hereby certify that the foregoing abstract of title to the lands therein described is correct as the same appears upon the original records, which have been carefully reviewed and compared to date.

(Signed) CHAS. R. HAINES,
Abstract Agent.

(Endorsed :) Abstract of title from Haines' abstract office, St. Louis county, Minnesota. N 2.

229 (PLAINTIFF'S EXHIBIT) No. N 3.

Haine's abstract office, St. Louis county, State of Minnesota.

MAY 20TH, A. D. 1884, AT 2 — M.

1.

The United States to The State of Minnesota. — N. ½ of S. E. ¼, S. 10, T. 57, R. 17, 80 acres; N. W. ¼ S. E. ¼, S. 17, T. 57, R. 17, 48 acres; S. E. ¼ of N. E. ¼ & N. E. ¼ of S. E. ¼, S. 20, T. 57, R. 17, 80 acres; S. ½ of N. W. ¼, S. 26, T. 57, R. 17, 80 acres; N. E. ¼ of S. E. ¼, S. 26, T. 57, R. 17, 40 acres; lot 7 & N. E. ¼ of S. E. ¼, S. 1, T. 56, R. 20, 80 acres; S. W. ¼ of N. W. ¼ or lot 10, S. 4, T. 56, R. 20, 40 acres; S. E. ¼ of N. E. ¼, S. 12, T. 56, R. 20, 40 acres; N. ½ of S. E. ¼, S. 12, T. 56, R. 20, 80 acres; W. ½ of S. W. ¼, S. 28, T. 57, R. 20, 80 acres; E. ½ of N. E. ¼, S. 32, T. 57, R. 20, 80 acres; total, 720 acres. Patent, Feb. 6th, 1882. State auditor's certificate dated May 7th, 1884.

2.

The State of Minnesota to The Minneapolis & St. Cloud Railroad Company. — Same as No. 1. 720 acres. Deed — Jan. 11, 1884. Filed May 9, 1884, at 10 a. m., Book Y, page 279. State auditor's certificate dated May 7th, 1884.

230

3.

The Minneapolis & St. Cloud Railroad Company to John S. Pillsbury. — Same as No. 1, with other lands. 720 acres. $3,269.27. Warranty deed dated M'ch 7, 1884. Filed May 9th, 1884, 10 a. m., Book Y, page 285.

I hereby certify that the foregoing abstract of title to the lands therein described is correct as the same appears upon the original records, which have been carefully reviewed and compared to date.

(Signed) CHAS. R. HAINES,
Abstract Agent.

(Endorsed:) Abstract of title from Haines' abstract office, St. Louis county, Minnesota. N 3.

231 (PLAINTIFF'S EXHIBIT No. N 4.)

Office of register of deeds, Carlton county, State of Minnesota.

MAY 10TH, A. D. 1884, AT 4 P. M.

1.

The United States to The State of Minnesota.	Lot No. 4, S. 7, T. 47, R. 20, 30.09 acres; lot No. 1, S. 18, T. 47, R. 20, 29.75 acres; total, 59.84 acres. Patent dated Oct. 12, 1880. Filed May 9, 1884, 4 p. m., Book A, page 639. State auditor's certificate dated May 7, '84.

2.

The State of Minnesota to The Minneapolis & St. Cloud Railroad Company.	Same as No. 1. Deed dated Jan. 11, 1884. Filed May 9, 1884, 4 p. m., Book A, page 639. State auditor's certificate dated May 7, 1884.

3.

The Minneapolis & St. Cloud Railroad Company to John S. Pillsbury.	Same as No. 1, with other lands. $314.64. Warranty deed dated M'ch 7, 1884. Filed May 9, 1884, 4 p. m., Book D, page 346.

I hereby certify that the foregoing abstract of title to the lands therein described is correct as the same appears upon the original records, which have been carefully reviewed and compared to date.

[SEAL.] H. H. HAWKINS,
Register of Deeds.

232 Office of the clerk of the district court, Carlton county, State of Minnesota.

THOMSON, MINN., *May 10th*, 1884—4 p. m.

I, C. O. Lovejoy, clerk of the district court, Carlton county, State of Minnesota, do hereby certify that I have examined the records and files of my office and find that there are no judgments of record therein against any of the grantors or grantees to within abstract to this date.

Witness my hand and the seal of said court.

[SEAL.] C. O. LOVEJOY,
Clerk of the District Court, Carlton County, Minn.,
By H. H. HAWKINS,
Deputy Clerk.

Auditor's office, Carlton county, State of Minnesota.

THOMSON, MINN., *May 10th*, 1884.

I, H. H. Hawkins, auditor of Carlton county, State of Minnesota, do hereby certify that there are no taxes due on the following-described lands situate in said county, to wit: N. ½ of S. E. ¼, S. 18, 49, 19, & lot No. 4, in sec. 7, & lot No. 1, S. 18, 47, 20.

Attest:

[SEAL.] H. H. HAWKINS,
County Auditor, Carlton County, Minn.

(Endorsed:) Abstract of title for lands in township 17, — 20, as shown within from register's office, Carlton county, Minnesota. N 4.

233 (PLAINTIFF'S EXHIBIT No. N 5.)

Office of register of deeds, Crow Wing county, State of Minnesota.

MAY 15TH, A. D. 1884, AT 9 A. M.

1.

The United States to The State of Minnesota.	S. E. ¼ of N. E. ¼ of S. 28, T. 59, R. 26, 40 acres. Patent dated June 11, 1877. Filed May 9, 1884, 4 p. m., Book A, Miss., page 44. State auditor's certificate dated May 7, 1884.

2.

The State of Minnesota to The Minneapolis & St. Cloud Railroad Company.	S. E. ¼ of N. E. ¼, S. 28, T. 59, R. 26, 40 acres. Deed dated Jan. 11, 1884. Filed May 9, 1884, 4 p. m., Book A, Miss., page 44. State auditor's certificate dated May 7, 1884.

3.

The Minneapolis & St. Cloud Railroad Company to John S. Pillsbury.	S. E. ¼ of N. E. ¼ of S. 28, T. 59, R. 26, 40 acres, $1,239.07. Warranty deed dated M'ch 7, 1884. Filed May 9, 1884, 4.15 p. m., Book A, Deeds, with other lands.

I hereby certify that the foregoing abstract of title to the lands therein described is correct as the same appears upon the original records, which have been carefully reviewed and compared to date.

[SEAL.] MILTON McFADDEN,
Register of Deeds.

N 5.

234 (PLAINTIFF'S EXHIBIT No. N 6.)

STATE OF MINNESOTA:

AUDITOR'S OFFICE, SAINT PAUL, *May 7th*, 1884.

I, M. D. Kenyon, acting auditor of State and acting *ex officio* commissioner of the State land office, do hereby certify (sec. 5, chap. 38, Revised Statutes of 1878) that the following-described tract of land, to wit, the S. W. ¼ of the S. W. ¼ of sec. 8, T. 50, R. 19, 40 acres, was conveyed by the United States to the State of Minnesota by patent No. 16, Duluth land district, dated October 18, 1883, under the provisions of the act of Congress approved March 12, 1860 (R. S., sec. 2490), entitled "An act to extend the provisions of 'An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits' to Minnesota and Oregon, and for other purposes," said patent being of record in the General Land Office, at Washington, in volume 2, pages 299 to 301, inclusive, and now on file in this office.

And I further certify that the said above-described tract of land was conveyed by the State of Minnesota to the Minneapolis & St. Cloud Railroad Company by deed No. 1, dated January 11, 1884, said deed being duly recorded in the State land office in Railroad Record D, pages 183 to 203, inclusive.

Witness my hand and official seal the day and year first above written.

[SEAL.] M. D. KENYON,
Acting Auditor of State and Acting ex Officio Commissioner of the State Land Office.

235 (Endorsed.)

State Auditor's Certificate.

The United States to the State of Minnesota and the State of Minnesota to the Minneapolis & St. Cloud Railroad Company.

STATE OF MINNESOTA, *County of St. Louis,* } ss:

OFFICE OF REGISTER OF DEEDS.

I hereby certify that the within instrument was filed in this office for record on the 9th day of May, A. D. 1884, at 10 o'clock a. m., and was duly recorded in Book Y of Deeds, on page 280.

[SEAL.] I. A. MANNBEIM,
Register of Deeds,
By I. C. VANBORMAN, *Deputy.*

N 6.

236 (PLAINTIFF'S EXHIBIT No. N 7.)

STATE OF MINNESOTA:

AUDITOR'S OFFICE, SAINT PAUL, *May 7th*, 1884.

I, M. D. Kenyon, acting auditor of State and acting *ex officio* commissioner of the State land office, do hereby certify (sec. 5, chap. 38, Revised Statutes of 1878) that the following-described tract of land, to wit:

N. ½ of S. E. ¼, sec. 10, T. 57, R. 17, 80 acres.
N. W. ¼ of S. E. ¼, sec. 17, T. 57, R. 17, 40 acres.
S. E. ¼ of N. E. ¼ & N. E. ¼ of S. E. ¼ of sec. 20, T. 57, R. 17, 80 acres.
S. ½ of N. W. ¼ & N. E. ¼ of S. E. ¼, sec. 26, T. 57, R. 17, 120 acres.
Lot seven (7) & N. E. ¼ of S. E. ¼ of sec. 1, T. 56, R. 20, 80 acres.
S. W. ¼ of N. W. ¼ or lot 10, sec. 4, T. 56, R. 20, 40 acres.
S. E. ¼ of N. E. ¼ & N. ½ S. E. ¼, sec. 12, T. 56, R. 20, 120 acres.
W. ½ of S. W. ¼, sec. 28, T. 57, R. 20, 80 acres.
E. ½ of N. E. ¼, sec. 32, T. 57, R. 20, 80 acres.
Total, 720 acres—

were conveyed by the United States to the State of Minnesota by patent No. 8, Duluth land district, dated February 6, 1882, under the provisions of the act of Congress approved March 12, 1860 (R. S., sec. 2490), entitled "An act to extend the provisions of 'An act to
237 enable the State of Arkansas and other States to reclaim the swamp lands within their limits' to Minnesota and Oregon, and for other purposes," said patent being of record in the General Land Office, at Washington, in volume 2, pages 179 to 202, inclusive, and now on file in this office.

And I further certify that the said above-described tracts of land were conveyed by the State of Minnesota to the Minneapolis & St. Cloud Railroad Company by deed No. 1, dated January 11, 1884, said deed being duly recorded in the State land office, in Railroad Record "D," pages 183 to 203, inclusive.

Witness my hand and official seal the day and year first above written.

[SEAL.] (Signed) M. D. KENYON,
Acting Auditor of State and Acting ex Officio Commissioner of the State Land Office.

(Endorsed.)

6379. *State Auditor's Certificate.*

The United States to the State of Minnesota and the State of Minnesota to the Minneapolis and St. Cloud R. R. Co.

STATE OF MINNESOTA, } ss:
County of St. Louis, }

OFFICE OF REGISTER OF DEEDS.

I hereby certify that the within instrument was filed in this office

for record on the 9th day of May, A. D. 1884, at 10 o'clock a. m., and was duly recorded in Book Y of Deeds, on page 279.

I. A. MANNBEIM,
Register of Deeds,
By I. C. VANBORMAN,
Deputy.

N 7.

238 (PLAINTIFF'S EXHIBIT NO. N 8.)

STATE OF MINNESOTA:

AUDITOR'S OFFICE, SAINT PAUL, *May 7th*, 1884.

I, M. D. Kenyon, acting auditor of State and *ex officio* commissioner of the State land office, do hereby certify (sec. 5, chap. 38, Revised Statutes of 1878) that the following-described tract- of land, to wit:

S. E. ¼ of N. E. ¼, sec. 28, T. 59, R. 26, 40 acres, was conveyed by the United States to the State of Minnesota by patent No. 7, St. Cloud land district, dated June 11, 1877, under the provisions of the act of Congress approved March 12, 1860 (R. S., sec. 2490), entitled "An act to extend the provisions of 'An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits' to Minnesota and Oregon, and for other purposes," said patent being of record in the General Land Office, at Washington, in volume 1, pages 476 to 484, inclusive, and now on file in this office.

And I further certify that the said above-described tract of land was conveyed by the State of Minnesota to the Minneapolis and St. Cloud Railroad Company, by deed No. one, dated January 11th, 1884, said deed being duly recorded in the State land office in Railroad Record "D," pages 183 to 203, inclusive.

Witness my hand and official seal the day and year first above written.

[SEAL.] (Signed) M. D. KENYON,
Acting Auditor of State and Acting ex Officio Commissioner of the State Land Office.

239 (Endorsed.)

State Auditor's Certificate.

The United States to the State of Minnesota and the State of Minnesota to the Minneapolis & St. Cloud Railroad Company.

OFFICE OF REGISTER OF DEEDS.

STATE OF MINNESOTA, *County of Crow Wing,* } *ss:*

I hereby certify that the within instrument was filed in this office for record the 9th day of May, A. D. 1884, at 4 o'clock p. m., and was duly recorded in Book A of Miss. R's, on page 44.

[SEAL.] (Signed) MILTON McFADDEN.

N 8.

240 (PLAINTIFF'S EXHIBIT No. N 9.)

STATE OF MINNESOTA:

AUDITOR'S OFFICE, SAINT PAUL, *May 7th*, 1884.

I, M. D. Kenyon, acting auditor of State and acting *ex officio* commissioner of the State land office, do hereby certify (sec. 5, chap. 38, Revised Statutes of 1878) that the following-described tracts of land, to wit:

Lot numbered four (4) in S. 7, T. 47, R. 20	3,009 acres.
Lot numbered one (1) in S. 18, T. 47, R. 20	2,975
Total No. of acres	5,984

were conveyed by the United States to the State of Minnesota by patent No. 4, Duluth land district, dated October 12, 1880, under the provisions of the act of Congress approved March 12, 1860 (R. S., sec. 2490), entitled "An act to extend the provisions of 'An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits' to Minnesota and Oregon and for other purposes," said patent being of record in the General Land Office at Washington, in volume 2, pages 47 to 72, inclusive, and now on file in this office.

And I further certify that the said above-described tracts of land were conveyed by the State of Minnesota to the Minneapolis & St. Cloud Railroad Company by deed No. 1, dated January 11, 1884, said deed being duly recorded in the State land office, in Railroad Record D, pages 183 to 203, inclusive.

241 Witness my hand and official seal the day and year first above written.

[SEAL.] M. D. KENYON.
Acting Auditor of State and Axting ex Officio Commissioner of the State Land Office.

(Endorsed.)

State Auditor's Certificate.

The United States to the State of Minnesota and the State of Minnesota to the Minneapolis & St. Cloud Railroad Co.

OFFICE OF REGISTER OF DEEDS.

STATE OF MINNESOTA, } ss:
County of Carlton, }

I hereby certify that the within instrument was filed in this office for record on the 9th day of May, A. D. 1884, at 4 o'clock p. m., and was duly recorded in Book A of Miss. —, on page 639, &c.

[SEAL.] H. H. HAWKINS,
Register of Deeds.

N 9.

242 (PLAINTIFF'S EXHIBIT No. N 10.)

STATE OF MINNESOTA:

AUDITOR'S OFFICE, SAINT PAUL, *May 7th*, 1884.

I, M. D. Kenyon, acting auditor of State and acting *ex officio* commissioner of the State land office, do hereby certify (sec. 5, chap. 38, Revised Statutes of 1878) that the following-described tracts of land, to wit:

N. E. ¼ of N. E. ¼, sec. 2, T. 52, R. 17	39.01 acres.
S. E. ¼ of N. W. ¼, sec 14, T. 52, R. 17	40 acres.
S. E. ¼ of S. W. ¼, sec. 14, T. 52, R. 17	40 acres.
Lot 3, sec. 28, T. 51, R. 18	54 acres.
Total	173.01 acres.

Were conveyed by the United States to the State of Minnesota by patent No. 4, Duluth land district, dated October 12, 1880, under the provisions of the act of Congress approved March 12, 1860 (R. S., sec. 2490), entitled "An act to extend the provisions of 'An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits' to Minnesota and Oregon, and for other purposes," said patent being of record in the General Land Office, at Washington, in volume 2, pages 47 to 72, inclusive, and now on file in this office.

And I further certify that the said above-described tracts of land were conveyed by the State of Minnesota to the Minneapolis and St. Cloud Railroad Company by deed No. one, dated January 11th, 1884, said deed being duly recorded in the State land office in railroad record "D," pages 183 to 203, inclusive.

243 Witness my hand and official seal the day and year first above written.

[SEAL.] (Signed) M. D. KENYON,
Acting Auditor of State and Acting ex Officio Commissioner of the State Land Office.

(Endorsed.)

State Auditor's Certificate.

The United States to the State of Minnesota and the State of Minnesota to the Minneapolis & St. Cloud Railroad Company.

OFFICE OF REGISTER OF DEEDS.

STATE OF MINNESOTA, *County of St. Louis,* } ss:

I hereby certify that the within instrument was filed in this office for record on the 9th day of May, A. D. 1884, at 10 o'clock a. m., and was duly recorded in Book Y of Deeds, on page 281.

I. A. MANNBEIM,
Register of Deeds.
By I. C. VANBORMAN, *Deputy.*

N 10.

244 (PLAINTIFF'S EXHIBIT O.)

				Estimate.	
N e of n e	4	59	14	250	St. Louis Co.
N e of s e	31	60	14	300,000	"
S w ¼ of s e, n ½ of s w	32	60	14	900,000	"
W ½ of n e	9	60	14	450,000	"
N e ¼ of s e	6	58	14	250,000	"
N ½ of n e, s ½ of s e	26	58	14	950,000	"
S w ¼ of s w ¼	3	60	15	250,000	"
N e ¼ of s e ¼	6	60	15	275,000	"
S w ¼, s w ¼ of s e	9	60	15	2,000,000	"
N e of n w	10	60	15	200,000	"
N e of n w	14	60	15	250,000	"
N e of s e, s w of s e	26	60	15	400,000	"
S w of n e & lots 1 & 2	5	61	15	750,000	"
Lots 1 & 2	6	61	15	550,000	"
N e of n w, s ½ of s e, s e of s w	19	60	16	1,100,000	"
N e ¼	21	60	16	2,000,000	"
W ½ of s w	23	60	16	1,000,000	"
N ½ of s e	12	60	16	525,000	"
S e of s e	18	60	16	250,000	"
E ½ of s e	22	60	16	900,000	"
N ½ of n e, s w of n e, n w of s e	24	60	16	1,325,000	"
S w of s w	6	60	16	300,000	"
S ½ of n w	29	60	16	550,000	"
Lots 5 & 8	23	58	16	350,000	"
245 Lot 1	2	52	17	250,000	"
S e of n w, s e of s w	14	52	17	475,000	"
S w of s e	10	50	17	300,000	"
N ½ of s e	10	57	17	800,000	"
N w of s e	17	57	17	200,000	"
S e of n e, n e of s e	20	57	17	350,000	"
S ½ of n w, n e of s e	26	57	17	775,000	"
N ½ of s e	13	60	17	600,000	"
N e of n e	19	60	17	400,000	"
N w of n w	20	60	17	400,000	"
N ½ of s w, s e of s w, & lots 3 & 4	1	60	17	1,250,000	"
N ½ of s e	2	60	17	800,000	"
N ½ of n e	12	60	17	650,000	"
S ½ of s e	29	60	18	700,000	"
W ½ of n e	32	60	18	500,000	"
N w of s w	22	60	18	250,000	"
S ½ of n e	32	58	18	450,000	"
S w of n e, n ½ of s e, s e of s e	4	50	19	1,250,000	"
S w of s w	8	50	19	250,000	"
N e of n w, n w of n e	10	52	19	355,000	"
N w of n w, n w of s w	14	63	19	525,000	"
S e of n e	22	63	19	200,000	"
S w of n w, s e of n e	23	63	19	500,000	"
S e of n e	19	57	20	225,000	"
246 W ½ of s w	28	57	20	400,000	"
E ½ of n e	32	57	20	800,000	"
Lot 4	7	47	20	150,000	Carlton Co.
Lot 1	18	47	20	300,000	"
Lot 7, n e of s e	1	56	20	400,000	St. Louis Co.
S w of n w	4	56	20	250,000	"
S e of n e, n ½ of s e	12	56	20	700,000	"
N e of n w	25	64	20	200,000	"
W ½ of n e	24	64	20	800,000	"
N w of n e, n w of s e	26	64	20	450,000	"
N w of s w	4	66	20	300,000	"

(*Plaintiff's Exhibit O*)—Continued.

				Estimate.	
N e of n e	15	66	20	300,000	St. Louis Co.
Lot 2	31	56	21	375,000	"
Lot 1	3	64	21	600,000	"
S w of s e	11	64	21	200,000	"
Lots 1, 2, 3, & 6	2	64	21	1,000,000	"
S e of n e, lot 4	12	64	21	525,000	"
N e of n e	27	65	21	250,000	"
S w of n e, e ½ of n w	34	65	21	900,000	"
N e of s w & lot 1	34	65	21	675,000	"
N ½ of n w & s w of n w	35	63	23	1,000,000	Itasca Co.
N e ¼, n e of n w	34	63	23	1,850,000	"
Lot 3 & 4	31	60	6	750,000	Lake Co.
Lots 2 & 3 & s w of n w	15	59	6	1,100,000	"
N ½ of n e	17	59	6	750,000	"
S w of s w	33	59	6	325,000	"
Lot 8	10	59	6	275,000	"
				44,355,000	

247 Know all men by these presents that whereas I, D. M. Sabin, of Stillwater, Minnesota, heretofore, to wit, on the sixteenth day of September, A. D. 1884, contracted with P. M. Ranney for the purchase from the said Ranney of certain real property, comprising about five thousand and nine hundred (5,900) acres of land, in the counties of St. Louis, Itasca, and Carlton, in the State of Minnesota, a specific description of which, together with the estimated amount of pine timber standing thereon at the time of the contract, is as follows, viz:

				Estimate.
N e of n e	4	59	14	250,000
N e of s e	31	60	14	300,000
S w ¼ of s e, n ½ of s w	32	60	14	900,000
W ½ of n e	9	60	14	450,000
N e ¼ of s e	6	58	14	250,000
N ½ of n e, s ½ of s e	26	58	14	950,000
S w ¼ of s w ¼	3	60	15	250,000
N e ¼ of s e ¼	6	60	15	275,000
S w ¼, s w ¼ of s e	9	"	"	2,000,000
N e of n w	10	"	"	200,000
N e of n w	14	"	"	250,000
N e of s e, s w of s e	26	"	"	400,000
S w of n e & lots 1 & 2	5	61	15	750,000
Lots 1 & 2	6	"	"	550,000
N e of n w, s ½ of s e, s e of s w	19	60	16	1,100,000
N e ¼	21	"	"	2,000,000

				Estimate.
W ½ of s w	23	"	"	1,000,000
248 N ½ of s e	12	60	16	525,000
S e of s e	18	"	"	250,000
E ½ of s e	22	"	"	900,000
N ½ of n e, s w of n e, n w of s e	24	"	"	1,325,000
S w of s w	6	60	16	300,000
S ½ of n w	29	"	"	550,000
Lots 3 and 8	23	58	16	350,000
Lot 1	2	52	17	250,000
S e of n w, s e of s w	14	"	"	475,000
S w of s e	10	50	17	300,000
N ½ of s e	10	57	"	800,000
N w of s e	17	"	"	200,000
S e of n e, n e of s e	20	"	"	350,000
S ½ of n w, n e of s e	26	"	"	775,000
N ½ of s e	13	60	17	600,000
N e of n e	19	"	"	400,000
N w of n w	20	"	"	400,000
N ½ of s w, s e of s w, & lots 3 & 4	1	60	17	1,250,000
N ½ of s e	2	"	"	800,000
N ½ of n e	12	"	"	650,000
S ½ of s e	29	60	18	700,000
W ½ of n e	32	"	"	500,000
N w of s w	22	"	"	250,000
S ½ of n e	32	58	18	450,000
S w of n e, n ½ of s e, s e of s e	4	50	19	1,250,000
S w of s w	8	"	"	250,000
N e of n w, n w of n e	10	52	19	355,000
N w of n w, n w of s w	14	63	19	525,000
S e of n e	22	"	"	200,000
S w of n w, s e of n e	23	"	"	500,000
S e of n e	19	57	20	225,000
W ½ of s w	28	"	"	400,000
E ½ of n e	32	"	"	800,000
Lot 4	7	47	20	150,000
" 1	18	"	"	300,000
Lot 7, n e of s e	1	56	20	400,000
S w of n w	4	56	20	250,000
S e of n e & n ½ of s e	12	56	20	700,000
N e of n w	25	64	20	200,000
W ½ of n e	24	"	"	800,000
N w of n e, s w of s e	26	"	"	450,000
N w of s w	4	66	20	300,000
N e of n e	15	"	"	300,000
Lot 2	31	56	21	375,000
Lot 1	3	64	21	609,000

				Estimate.
S w of s e	11	64	21	200,000
Lots 1, 2, 3, & 6	2	"	"	1,000,000
S e of n e & lot 4	12	"	"	525,000
N e of n e	27	65	21	250,000
S w of n e, e ½ of n w	34	"	"	900,000
N e of s e & lot 1	"	"	"	675,000
N ½ of n w & s w of n w	35	63	23	1,000,000
N e ¼, n e of n w	34	"	"	1,850,000
Lots 1 & 4	31	60	6	750,000
Lots 2, 3 & s w of n w	15	50	6	1,100,000
N ½ of n e	17	"	"	750,000
249 S w of s w	33	59	6	325,000
Lot 8	10	59	6	275,000

For which said lands I agreed to pay, and did pay, to the said Ranney three thousand dollars ($3,000.00) at the date of said contract, and likewise gave the said Ranney my promissory notes for the balance of said purchase-money as follows, to wit: A note for three thousand dollars ($3,000.00) with interest at the rate of eight per cent. per annum, due in sixty days from date thereof, and a contract for the sum of nine thousand, eight hundred, sixty-*six* and $\frac{50}{100}$ dollars ($9,868.50), with like interest, payable within a year of date of said contract, which said note of three thousand dollars I have since paid, *h*eaving due on the said purchase price of said property the aforesaid contract for the sum of nine thousand, eight hundred, sixty-eight and $\frac{50}{100}$ dollars ($9,868.50) and no more; deeds for which said property have been executed by said Ranney and placed in the hands of Col. John C. Spooner of Hudson, Wisconsin to be delivered to me upon the payment of said last-mentioned note;

Now therefore, I, the said D. M. Sabin, in consideration of the sum of one dollar and other valuable considerations, to me in hand paid by Robert B. Langdon, the receipt whereof is hereby acknowledged, hereby grant, bargain, sell and convey, and assign transfer, set over and deliver to the said Robert B. Langdon all my interest in and to the said land hereinbefore described and all my right, title, and interest in and to the said contract with the said Ra-ney, with full power unto him, the said Robert B. Langdon to fully com*p*kete the performance of said contract, and demand, sue for and recover the said lands and the conveyance thereof, as well as
250 the possession thereof from the said Ranney absolutely, to his own use and benefit forever.

And I likewise assign, transfer, set over and deliver to the said Robert B. Langdon all rights of action, claims and demands that I now *ah*ve against the said Ranney for the recovery of moneys here-

tofore paid by — on said contract, to said Ranney, on default of the refusal of the said Ranney to make and deliver proper conveyances of the lands aforesaid, or by reason of any other act or thing now existing whereby there has accrued to me at the present time any right of action in my favor against the said Ranney.

In witness whereof I have hereunto affixed my hand and seal, at the city of Stillwater, Minn., this 27th day of August, A. D. 1885.

(Signed) D. M. SABIN.

251 PLAINTIFF'S EXHIBIT "D."

Office of John C. Spooner, attorney-at-law, in Taylor-Goss block.

HUDSON, WIS., *Oct.* 26, 1885.

Statement of transaction between P. M. Ranney and R. B. Langdon, the former with H. C. Baker, his attorney, the latter by C. S. Langdon, his agent, with J. N. Searles, his attorney. Under agreement between Ranney & D. W. Sabin, of Dakota, Sept. 16, 1884, Langdon, by his attorney, Searles, tenders $9,868.50, with interest at 8 % from dak- of contract Sept. 16, 1884 (after showing assignment from Sabin), upon condition that Ranney deliver to Langdon warranty deed of about 5,900 acres of land, being the lands mentioned in contract, and deeds left by Lobin & Ranney with me in escrow and now in my possession.

Ranney, by Baker, his attorney, declines to execute and deliver such deed, and offers to execute and deliver to Langdon, assignee, a warranty deed or deeds for the land described in the deeds in my hands in escrow, and to deliver to Langdon property assigned — the contracts, including option contract left in escrow with me, and were in my possession, and demands the payment of the $9,868.50 and interest, as aforesaid, which offer Searles, for Langdon, and in C. S. Langdon's presence, declines and refuses to make said payment, for the reason, as he states, that Langdon is entitled to deeds for the 5,900 acres; and, 2nd, if not entitled to the conveyances he is entitled to have the option contract with Jewett in my hands maintained in force in the present *dak*, so that he could exercise
252 the option of tender so far as form is concerned. No — made by either party as to sufficiency.

JOHN C. SPOONER.

The above is correct.

J. C. SEARLES,
Att'y for R. B. Langdon.
H. C. BAKER,
Att'y, P. M. Ranney.

The within statement of facts is to be taken as evidence between the parties concerned in any litigation arising out of the transaction therein related or referred to.

J. C. N. SEARLES,
Att'y for R. B. Langdon.
H. C. BAKER,
Att'y for P. M. Ranney.

Oct. 26, 1885.

253 (PLAINTIFF'S EXHIBIT "R.")

HUDSON, WIS., *Sept.* 11, 1885.

For a valuable consideration, the receipt whereof is hereby acknowledged, I hereby extend to D. W. Sabin and his assigns the time for the payment of the $9,868.50 and interest due me the 16th day of September, A. D. 1885, on land purchased, etc., until the 16th day of October, A. D. 1885.

P. M. RANNEY. [SEAL.]

The time above limited is extended to the 26th day of October, 1885.

In witness whereof I have hereunto set my hand and seal this 4th day of October, A. D. 1885.

P. M. RANNEY. [SEAL.]

St. Paul, Minn.

254 (DEFENDANT'S EXHIBIT No. 1.)

President's office, Northwestern M'f'g & Car Co.; D. M. Sabin, president.

STILLWATER, MINN., *Sept.* 16, 1884.

Land Contract.

P. M. Ranney to-day sold me land contracts, which he assigned in blank and executed a warranty deed, also in blank, for about 5,900 acres land in St. Louis, Carlton, and Itasca counties, Minnesota, and left the same in John C. Spooner's hands, to be delivered to me upon the payment of a certain promissory note made by me this date for $3,000.00, with interest at the rate of 8 % per annum from date until paid; also the further sum of $9,868.50, which I agree to pay within a year from the date, with interest at the rate of 8 % per annum until paid; said Spooner to hold said contracts and warranty deeds until I pay said Ranney or I make some other satisfactory arrangement with him. It is understood that said contracts and deed for lands are as security for the payment of the above $9,868.50 and the $3,000.00 note.

D. M. SABIN.

No. 1.

255 UNITED STATES OF AMERICA, *ss:*

To Philip M. Ranney and John Comstock, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be holden at Washington on the second Monday in October next, pursuant to an appeal filed in the clerk's office of the circuit court of the United States for the district of Minnesota, wherein Robert B. Langton is complainant and you are defendants in error, to show cause, if any there be, why

the judgment in the said appeal mentioned should not be corrected and speedy justice should not be had to the prayers of appellant in that behalf.

Witness the Hon. David J. Brewer, of the circuit court of the United States for the district of Minnesota, this 19 day of December, A. D. 1888.

DAVID J. BREWER,
Circuit Judge.

256 End: 420. B. ch. U. S. cir. court, dist. of Minnesota. Rob't B. Langdon *v.* Phillip M. Ranney *et al.* Citation on appeal. Service of copy of within citation hereby admitted at St. Paul, Minn., this 19th Dec, A. D. 1888. Lusk & Bunn, solicitors for defendants. H. Filed Dec. 19, 1888. Oscar B. Hillis, clerk.

257 UNITED STATES OF AMERICA.

CIRCUIT COURT OF THE UNITED STATES, *District of Minnesota,* } *ss:*

I, Oscar B. Hillis, clerk of said circuit court, do hereby certify and return to the honorable the Supreme Court of the United States that the foregoing, consisting of — pages, numbered consecutively from — to —, inclusive, is a true and complete transcript of the records, process, pleadings, orders, final decree, and all other proceedings in said cause and of the whole thereof as appears from the original records and files of said court; and I do further certify and return that I have annexed to said transcript and included within said paging the original citation, together with the proof of service thereof.

In witness whereof I have hereunto set my hand and affixed the seal of said court, at Saint Paul, in the district of Minnesota, this 3rd day of Oct., in the year of our Lord one thousand eight hundred and 89, and of the Independence of the United States the one hundred and 14th year.

Seal U. S. Circuit Court, Dist. of Minnesota.

OSCAR B. HILLIS, *Clerk.*
T. P. RICHARDSON, *Deputy.*

[Endorsed:] United States circuit court, district of Minnesota. R. B. Langdon *vs.* P. M. Ranney *et al.* Return to Supreme Court.

Endorsed on cover: Case No. 13,790. Minnesota C. C. U. S. No. 197. Robert B. Langdon, appellant, *vs.* Philip M. Ranney and John Comstock. Filed October 16, 1889.

Office Supreme Court U. S.
FILED.
JAN 21 1893
JAMES H. McKENNEY,
CLERK.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1892.

TERM No. 197.

ROBERT B. LANGDON, APPELLANT,

vs.

PHILIP M. RANNEY AND JOHN COMSTOCK.

BRIEF FOR APPELLEE PHILIP M. RANNEY.

C. W. BUNN,
Counsel.

SUPREME COURT OF THE UNITED STATES.

ROBERT B. LANGDON,
Appellant.

vs.

PHILIP M. RANNEY and JOHN COMSTOCK.

Brief for Appellee Philip M. Ranney.

STATEMENT OF FACTS.

This is an appeal from a decree in equity made by Mr. Justice Brewer. The bill is filed by Langdon as assignee of one Dwight M. Sabin for the specific performance of a land contract between Sabin and the Appellee Ranney. This contract was made on the 16th day of September, 1884.

The bill alleges, (and this is not denied), that on that day Ranney owned in fee certain pine lands in St. Louis and Carlton Counties, Minnesota, enumerated in Schedule "A" attached to the bill; that Ranney also owned certain paid-up land contracts entitling him to deeds from the Minnesota Central Railroad Company of certain other pine lands in the same counties; that he also had a contract with one Jewett giving him the option to buy certain other

pine lands in the same counties, of Jewett, at $3.50 per acre on or before December 1, 1884; Record, pp. 2, 3, 4.

The bill then alleges that on the 16th of September, 1884, Sabin and Ranney entered into *one written* contract respecting said lands; by which Sabin agreed to pay $3,000 cash, $3,000 in sixty days, (for which he gave his note), and $9,868.50 within one year; that in consideration of all said payments Ranney agreed to sell to Sabin all the paid up land contracts with the Minnesota Central Railroad Company, to transfer to Sabin the option to purchase of Jewett on the same terms under which Ranney then held it, and to deed to Sabin the said fee simple lands; Record, pp. 4, 5.

It is then alleged, Record, p. 5, that Sabin paid the $3,000 cash and the $3,000 note when due, *and thereupon became entitled under the contract to the transfer of said land contracts and option contract.* But it will be noticed that in setting forth the contract the bill does not allege any provision of it, under which Sabin was entitled to the land contracts when he paid the first $6,000, or at any time before he made full payment.

The bill then sets forth the complainant's theory that Ranney remained bound to exercise and preserve the option with Jewett; that he had failed to give Jewett the required notice on or before December 1, 1884, and thereby the benefit of that option had been lost which the bill says was very valuable.

The bill then alleges, Record, p. 6, that when the contract of September 16, 1884, was made the land contracts were delivered to John C. Spooner, to be by him held in escrow and delivered over to Sabin

when he paid the first $6,000. That the papers were afterward transferred by consent from Spooner's hands to the hands of the defendant John Comstock.

The bill prays, that the land contracts be delivered to the plaintiff; that a deduction be made from the remaining $9,868.50 due, on account of the loss of the Jewett option, and that on payment of the balance the defendant convey the fee simple lands within a time to be fixed by the court; the bill offers to pay such part of said $9,868.50 as shall be found still due; Record, p. 6.

This $9,868.50 Sabin absolutely agreed to pay in one year, that is to say by September 16, 1885. On September 11, 1885, Ranney extended the time in writing to October 16, 1885; Record, p. 108. The bill is verified on the 23d of November, 1885, (Record, p. 9), after Sabin had been over a month in default.

The answer alleges the contract to have been, that both the land contracts and the deeds for the fee simple lands were held by Spooner as security for the full sum of $12,868.50, none of them to be delivered to Sabin before full payment; Record, pp. 10, 11; that there is due on the contract a balance of $9,868.50 with interest, on payment of which Ranney offers the conveyances and land contracts, and that Ranney is and has always been ready and willing to carry out his contract; Record, p. 12.

The decree was that the plaintiff have ninety days to pay the $9,868.50, and interest remaining due, that on his payment of this sum all the contracts and deeds be delivered to him, and that on default of payment they belong to Ranney; Record, pp. 18, 19, 20.

Two questions were decided below:

First: Whether Ranney was liable in damages for failure to exercise and perfect the option with Jewett.

Second: Whether the complainant could have a decree for delivery to him of the land contracts, without paying the $9,868.50 still due from him under the contract.

After Sabin paid the first $6,000 under the contract he did not avail himself of or exercise his alleged right to take the land contracts out of Mr. Spooner's hands; he never made any demand until after he was in default on his $9,868.50 payment, to-wit, on October 26, 1885; and then he demanded a *warranty deed* of Ranney *for all the lands included in the paid-up contract, the Jewett option contract*, as well as the fee simple lands; Record, p. 107, Ex. D.

The material evidence is brief. Plaintiff claims that the contract of the parties is contained in a letter signed by Ranney addressed to John C. Spooner, and sent to Mr. Spooner with the collaterals. The letter is printed at page 58, Record, and is as follows:

"President's Office, Northwestern M'f'g & Car Co.
D. M. SABIN, President.

Stillwater, Minn., September 16, 1884.

JOHN C. SPOONER, Esq.

Dear Sir:—I have sold Mr. Sabin my interest in the enclosed land contracts, which I have assigned in blank. I enclose them in an envelope marked 'Land contracts.' The balance due me on them is $3,000 for which I have his note at 60 days, with

interest at 8% from date until paid. We have agreed to leave them in your hands as security for the payment of said note and interest, and if he does not pay the note at maturity you are to return them to me.

I also enclose 3 deeds for about 1643 acres, on which there is a balance due me. This is in an envelope marked 'Warranty deed.' This is not to be delivered to Mr. Sabin until we make a final settlement and you get written notice from me to deliver to him, said arrangement to be made within a month from date. Yours, etc.,

P. M. RANNEY."

O. K. D. M. Sabin.

Plaintiff further showed that the land contracts were deposited with Mr. Spooner inclosed in one envelope, the warranty deeds in another envelope. The first envelope was endorsed by Ranney as follows:

"Land contracts. To be delivered Sabin on payment of $3,000, note and interest 60 days from September 16th, 1884."

The defendant claimed that the contract was expressed in another writing, Record, p. 108, reading as follows:

"President's office, Northwestern M'f'g & Car Co.
D. M. SABIN, President.

Stillwater, Minn., September 16, 1884.

Land Contract.

P. M. Ranney today sold me land contracts, which he assigned in blank and executed a warranty deed, also in blank, for about 5,000 acres of land in St. Louis, Carlton, and Itasca counties, Minnesota, and

left the same in John C. Spooner's hands, to be delivered to me upon the payment of a certain promissory note made by me this date for $3,000, with interest at the rate of 8% per annum from date until paid; also the further sum of $9,868.50, which I agree to pay within a year from the date, with interest at the rate of 8% per annum until paid; said Spooner to hold said contracts and warranty deeds until I pay said Ranney or I make some other satisfactory arrangement with him. It is understood that said contracts and deed for lands are as security for the payment of the above $9,868.50, and the $3,000 note.

D. M. SABIN."

By the terms of the letter to Spooner Sabin was to have the land contract lands when he paid the first $6,000. By the terms of the paper entitled "land contract" he was to have none of the lands until he paid the whole purchase money. There are very good reasons for urging that the contract was contained in the paper called by the parties "land contract" and not in a letter to a third person. That the latter was at most a voluntary concession by Ranney which he might revoke; but we shall not discuss this proposition at length.

We endeavor to maintain two propositions.

First: Ranney was not liable for failure to exercise and perfect the option with Jewett.

Second: The decree correctly requires the complainant to pay the full amount and relieve himself from default, before he can have specific performance of any part of the contract as against the defendant.

ARGUMENT.

THE JEWETT OPTION.

I. The correctness of Justice Brewer's conclusion on this part of the case is too clear for argument. The option with Jewett was a mere option. Nothing had been paid on it. Both by the plaintiff's bill of complaint and by all the evidence, it appears that Ranney was to assign to Sabin this option just as he held it on September 16, 1884, and deliver the paper evidencing the option to Mr. Spooner in escrow. There is not a word in the writings imposing any further obligation on him. There is absolutely no showing that Ranney agreed to exercise, or perfect, or carry out this option. After September 16, 1884, Sabin was the equitable owner of it, and it was for him to say whether he wished to pay Jewett $3.50 per acre for these lands. Ranney had no right to bind Sabin to do this by accepting the option and notifiying Jewett of Sabin's acceptance. The option was Sabin's, subject to Ranney's lien for purchase money.

II. Was the complainant entitled to a decree for the delivery and assignment of the land contracts without himself being required to pay what was due from him under his contract?

This is not a case of two seperate contracts, or of one contract divisible into separate distinct parts.

The bill states, and the documents show, a single contract for sale of the land contracts and fee simple lands for one consideration, $15,868.50, which the vendee *agreed absolutely to pay*. Documents evidencing the titles were placed in the hands of Mr. Spooner as trustee and as security for Sabin's payment. The utmost that plaintiff can claim is a further agreement by which when he paid the first $6,000 he might have part of the collateral. But he did not exercise that right or attempt to until he filed this bill, and then he was himself in default on the last payment.

We may safely concede that he could have replevied the land contracts after the first $6,000 was paid; or that before he was in default he could have sued for specific performance of that part of the contract.

But he comes into equity to ask an equitable remedy,—always disrectionary,—while he is in default himself. He asks the court to enforce specifically part of the contract—that part presumably which is best for him, and leave him the option to perform the other part, if he sees it for his advantage. He would leave the defendant to his action at law for his breach of the other part, if he elects not to perform that.

The plaintiff's position is contrary to the elementary principles of specific performance. The remedy is disrectionery and he who seeks equity must do equity. *Willard* v. *Tayloe*, 8 Wall, 558, 571. He cannot satisfy the requirements of equity by resting on a legal right, for the court may always turn him over to his remedy at law. On the principle that he who seeks equity must do equity, there is no rule

better settled, than that the plaintiff in this suit must perform, or offer to perform, or be ready and willing to perform his *whole* contract. Yet he appeals from this decree because the court below required him to perform his whole contract. What objection can he have to this decree, unless he intends to get the benefits of part of the bargain and evade the burdens of the other part? "There is no principle of equity better settled, than that he who asks a specific execution of his contract must show a performance on his part, or that he has offered to perform." *Boone v. Missouri Iron Co.*, 17 How. 343. "In cases of this character no rule is more universal than that he who asks for a specific performance must be in a condition to perform himself." *Morgan's Heirs v. Morgan*, 2 Wheat. 299; *Pomeroy on Contracts*, Sec. 323; *Fry on Specific Performance*, Sec. 903; *Pomeroy's Eq.*, Sec. 1407. A plaintiff seeking this equitable remedy must accept it on the condition, that the court enforces all the defendant's rights against him growing out of the same transaction, as well as his rights against the defendant. Pomeroy on Contracts, Sec. 40, 43. And this is but an application of the maxim, "He who seeks equity, must do equity."

In *Hanson v. Keating*, 4 Hare 1, Sir James Wigram examines at length the limitations of this rule saying. "It decides in the abstract, that the court, giving the plaintiff the relief to which he is entitled, will do so only upon the terms of his submitting to give the defendant such corresponding rights, (if any), as he may be entitled to in respect of the subject matter of the suit." "So in the case of a bill for specific performance the court will give the purchaser his

conveyance provided he will fulfill his part of the contract by paying the purchase money."

And independent of a limited class of cases, (cases of marriage settlements in England), where full performance has become impossible by unexpected accident, but there has been part performance and the parties are not in *statu quo*, it is a settled principle that a court of equity will not specifically enforce part of a contract. It will not do justice by halves. It loves to do complete justice, and abhors multiplicity of litigation. Lord Redesdale says in *Wood v. Rowe*, 4 Bligh, 615, "I apprehend it impossible to hold, that a person can have a right to demand, that one part of an agreement shall be executed leaving the other parts unexecuted."

Though, as Sir James Wigram shows in his opinion above cited, a court will not compel a plaintiff to perform one contract as a condition to compelling the defendant to perform a separate and distinct contract, it will enforce all the duties of the plaintiff growing out of the same contract. This is not a case of distinct contracts. There was but one agreement in fact; in his bill the plaintiff sets forth the whole contract and he asks specific execution touching the fee simple lands as well as touching the contract lands. He was himself in default when he filed his bill. The case is plainly distinguishable from *Wilkinson v. Clemens*, 8 Ch. Appeals, 96, and *Tramways Company v. Mendel*, 8 Ch. Div. 235.

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